

TC 425
.C6 A3
1907a
Copy 2



Class TC 425

Book C 6 A 3

19074
COPY 2

IMPERIAL VALLEY OR SALTON SINK REGION.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

RELATIVE TO

THE THREATENED DESTRUCTION BY THE OVERFLOW OF THE COLORADO RIVER IN THE SINK OR DEPRESSION KNOWN AS THE IMPERIAL VALLEY OR SALTON SINK REGION.

JANUARY 12, 1907.—Read; referred to the Committee on Foreign Relations, and ordered to be printed, with accompanying maps.

To the Senate and House of Representatives:

The governor of the State of California and individuals and communities in southern California have made urgent appeals to me to take steps to save the lands and settlements in the sink or depression known as the Imperial Valley or Salton Sink region from threatened destruction by the overflow of Colorado River. The situation appears so serious and urgent that I now refer the matter to the Congress for its consideration, together with my recommendations upon the subject.

Briefly stated, the conditions are these: The Imperial Valley, so-called, in San Diego County, Cal., includes a large tract of country below sea level. Southeast of the valley and considerably above its level is the Colorado River, which flows on a broad, slightly elevated plane upon which the river pursues a tortuous course, finally entering the Gulf of California. The lands in Imperial Valley are 200 feet or more below the level of Colorado River. Down as far as the international border they are protected from inundation by low-lying hills. South of the boundary, in the Republic of Mexico, the hills cease abruptly, and only the broad low mud banks of the river protect the valley from being converted into an inland sea or lake. In order to get any water to this vast tract of fertile but desert land, or, on the other hand, to protect it from too much water, works of supply or of protection must be built in Mexico, even though they

may tap the river in the United States. The United States can neither aid nor protect the interests of its citizens without going upon foreign soil.

Nature has through many centuries protected this great depression from overflow, but the restless river, constantly shifting, has annually threatened to break through the banks. Only a little human aid was needed to cause it to do so.

This condition has been long known, and through many years schemes have been discussed either to convert the Salton Sink area into a lake or to irrigate the desert lands below sea level by making a cut in Mexico through the west bank of the Colorado River. It was also well understood that if the cut in the bank was not carefully guarded the river would quickly get beyond control. Finally, after many plans had been tentatively tried, the California Development Company, a New Jersey corporation, actively undertook the work. To insure the safety of Imperial Valley the head of the canal on the river was first placed on United States territory near where the river was bounded by hills. The canal then swung southwest and west away from the river through Mexican territory to connect with natural depressions leading to the valley and back into the United States. The organizers of this company, in order to carry on the work in Mexico, caused to be created a subsidiary company in Mexico acting under Mexican laws. Concessions were granted to this company by the Mexican Government, and provision was made for the employment of a Mexican engineer, to be designated by that Government, in order to see that the work was properly carried out. The dangerous character of the attempt was thus recognized in this concession.

The California Development Company began its work by making representations to possible settlers of the great benefits to be derived by them by taking up this land. A large amount of money which might have been used in needed works was expended in advertising and in promoting the enterprise. The claims were not only extravagant, but in many cases it appears that willful misrepresentation was made. Many of the operations of this company and of its subsidiary organizations tended to mislead uninformed settlers. At first the success of the company was great, and it disposed of water rights to settlers at prices sufficiently large to obtain a fair revenue either in cash or in securities of value.

The money thus obtained from settlers was not used in permanent development, but apparently disappeared either in profits to the principal promoters or in the numerous subsidiary companies, which to a certain extent fed upon the parent company, or served to obscure its operations, such as a construction company, a company to promote settlement, and a company to handle the securities of the various other corporations. The history of these deals is so complicated that it would require careful research, extending through many months, to unravel the devious ways by which money and valuable securities have disappeared. In brief, it is sufficient to state that the valuable considerations which were received for water rights were obviously not used in providing necessary and permanent works for furnishing water to the settlers.

The whole enterprise and the spirit of those promoting it, as well as of the numerous smaller speculators attracted to the subsidiary

organizations, were of the most visionary character. Actual investments made have been small in proportion to estimates of wealth which appeared to be possible of realization.

The company entered upon its construction work with large plans, but with inadequate capital. All of its structures for the control and distribution of water were temporary in character, being built of wood, and of the smallest possible dimensions. Through the efforts thus made a large amount of land was brought under cultivation, and at one time it was reported that over 100,000 acres were being more or less irrigated.

The first heading of the canal of the California Development Company was in the United States, immediately north of the Mexican border. It was found, however, after a time, that the heading on the United States side of the line did not give a grade to furnish sufficient flow of water, and, after headings had been opened at other points without successful results, a cut in the river bank was made 4 miles farther south in Mexican territory. This gave the water a shorter and steeper course toward the valley. The making of this cut in a bank composed of light alluvial soil above a depression such as this without controlling devices was criminal negligence. This short cut on Mexican soil was made in the fall of 1904. It was gradually eroded by the passage of the water, and in the spring of 1905 the floods of the Colorado River entering the artificial cut rapidly widened and deepened it until the entire flow of the river was turned westerly down the relatively steep slope into the Imperial Valley, and thence into what is known as Salton Sink or Salton Sea.

After the mischief became apparent strenuous efforts were made by the California Development Company to close the break, but these were without success. Finally the Southern Pacific Company, finding its tracks imperilled and traffic seriously interfered with, advanced money to the California Development Company, received as security a majority of the shares of the company, and thus took charge of the situation.

By means of the facilities available to the Southern Pacific Company the break in the west bank of the Colorado River was closed on November 4, 1906. A month later, however, a sudden rise in the river undermined the poorly constructed levees immediately south of the former break and the water again resumed its course into the Salton Sea.

The results have been highly alarming, as it appears that if the water is not checked it will cut a very deep channel which, progressing upstream in a series of cataracts, will result in conditions such that the water can not be diverted by gravity into the canals already built in the Imperial Valley. If the break is not closed before the coming spring flood of 1907 it appears highly probable that all of the property values created in this valley will be wiped out, including farms and towns, as well as the revenues derived by the Southern Pacific Company. Ultimately the channel will be deepened in the main stream itself up to and beyond the town of Yuma, destroying the homes and farms there, the great railroad bridge, and the Government works at Laguna dam, above Yuma.

It is difficult to estimate how many people have settled in the valley, the figures varying from 6,000 persons up to as high as 10,000. It is also difficult to ascertain how much money has been actually

spent in real improvements. Town lots have been laid off, sold at auction, and several hundred buildings erected in the various small settlements scattered throughout the tract. The greater part of the public land has been taken up under the homestead or desert entry laws, and sufficient work has been done to secure title. Some crops have been raised, and under favorable conditions the output in the near future will be large.

The actual amount of tangible wealth or securities possessed by the settlers to-day upon which money can be raised is believed to be very small. Nearly all individual property has been expended in securing water rights from the California Development Company, or from the other organizations handling the water supply and controlled by this company. It is evident that the people have slender resources to fall back upon, and in view of the threatened calamity are practically helpless. The California Development Company is also unable to meet the exigency. The obligations assumed by the sale of water rights are so great that the property of the company is not adequate to meet these obligations; in other words, a gift of the visible property of this company and of its rights would not be a sufficient offset to the assumption of its liabilities. Nevertheless, the people in their desperation were reported as trying to issue and sell bonds secured by their property in order to give to the California Development Company a million dollars to assist in repairing the break.

The complications which have arisen from the transfer of the property and the involved relations of the California Development Company with its numerous subsidiary companies are such that the United States would not be justified in having any dealings with this company until the complications are removed and the Government has a full understanding of every phase of the situation.

It has been stated above that the California Development Company has not the financial strength to repair the break and to restore the bank of the Colorado River to such permanent condition that a similar occurrence can not happen. It is further understood that the Southern Pacific Company, having expended \$2,000,000 or more for the protection of its interests, declines to furnish more money to the California Development Company to save the Imperial Valley, beyond controlling the present break in the river bank. The owners of the property in Imperial Valley, both farmers and townspeople, together with the Southern Pacific Company and the California Development Company, have combined to call upon the Government for a contribution to assist the California Development Company to the extent of erecting permanent works to insure protection for the future.

If the river is not put back and permanently maintained in its natural bed the progressive back cutting in the course of one or two years will extend upstream to Yuma, as before stated, and finally to the Laguna dam, now being built by the Government, thus wiping out millions of dollars of property belonging to the Government and to citizens. Continuing farther, it will deprive all the valley lands along the Colorado River of the possibility of obtaining necessary supply of water by gravity canals.

The great Yuma bridge will go out, and approximately 700,000 acres of land as fertile as the Nile Valley will be left in a desert condition. What this means may be understood when we remember that the entire producing area of southern California is about 250,000

acres. A most conservative estimate after full development must place the gross product from this land at not less than \$100 per acre per year, every ten acres of which will support a family when under intense cultivation. If the break in the Colorado is not permanently controlled the financial loss to the United States will be great. The entire irrigable area which will be either submerged or deprived of water in the Imperial Valley and along the Colorado River is capable of adding to the permanent population of Arizona and California at least 350,000 people, and probably 500,000. Much of the land will be worth from \$500 to \$1,500 per acre to individual owners, or a total of from \$350,000,000 to \$700,000,000.

The point to be especially emphasized is that prompt action must be taken, if any; otherwise the conditions may become so extreme as to be impracticable of remedy. The history of past attempts to close the break in the river bank has shown that each time, through delay, the work has cost double or treble what it would have cost had prompt action been taken. It is probable now that with an expenditure of \$2,000,000 the river can be restored to its former channel and held there indefinitely; but if this action is not taken immediately, several times this sum may be required to restore it, and possibly it can not be restored unless enormous sums are expended.

At the present moment there appears to be only one agency equal to the task of controlling the river, namely, the Southern Pacific Company, with its transportation facilities, its equipment, and control of the California Development Company and subsidiary companies. The need of railroad facilities and equipment and the international complications are such that the officers of the United States, even with unlimited funds, could not carry on the work with the celerity required. It is only the fact that the officers of the Southern Pacific Company, acting also as officers of the California Development Company, have been able to apply all its resources for transportation, motive power, and the operation of the road that has made it possible to control the situation to the extent which they have already done. The Southern Pacific Company is now reported to be working strenuously to fill the break through which the Colorado River is flowing westward to the Salton Sea, and in repairing and building levees to keep out the high water due next March. This work will be more or less of a temporary character. Further construction is necessary and all temporary works must be replaced by permanent structures. It is estimated that for this additional work \$2,000,000 should be available. The question as to what sum, if any, should be paid to the Southern Pacific Company for work done since the break of November 4, 1906, is one for future consideration: for work done prior to that date no claim can be admitted.

But one practicable course is now open for consideration.

The Southern Pacific Company must continue its work to close the break and restore the river to its proper channel. The United States can then take charge, making the protective works permanent and providing for their maintenance.

It is not believed that a free gift of this money should be made, as by its investment the stability of property of great value will be secured and the increase in land values throughout the Imperial Val-

ley will be sufficient to justify the provision that this money should be returned to the Government.

The Reclamation Service should be authorized to take steps at once for the construction of an irrigation project, under the terms of the reclamation act, for the lands in the Imperial Valley and in the lower Colorado River Valley. The Service should be in position to proceed actively with the organization of the project and the construction of the works as soon as the conditions in regard to the protection of the valley against overflow will justify expenditures for this purpose.

To accomplish this, the United States should acquire the rights of the California Development Company and its subsidiary corporations in the United States and Mexico upon such reasonable terms as shall protect the interests of the Government and of the water users. The United States should obtain by convention with Mexico the right to carry water through that country upon reasonable conditions.

Most of the land in the Imperial Valley has been entered under the terms of the desert land act or the homestead laws, and title has not passed out of the United States.

The construction work required would be: The main canal, some 60 miles in length, from Laguna dam into the Imperial Valley; the repair and partial reconstruction of the present distribution system in the valley and its extension to other lands, mainly public; diversion dams and distribution systems in the Colorado River Valley, and provision for supplementing the natural flow of the river by means of such storage reservoirs as may be necessary. This would provide for the complete irrigation of 300,000 acres in the Imperial Valley and for 400,000 acres additional in the United States in the valley of the Colorado in Arizona and California.

The reclamation fund now available has been allotted for projects under construction, and the anticipated additions to the fund for the next few years will be needed to complete these projects. It will therefore be impossible to construct a reclamation project for the Imperial Valley with the funds now in hand, and it will be necessary for Congress to make specific appropriation for this work if it decides to undertake it.

Such appropriation would be expended for a project carried out under all the provisions of the reclamation act, requiring the return to the reclamation fund of the cost of construction and maintenance of the irrigation works, and there should be the further requirement that the cost of permanent protective works and their maintenance be repaid.

The interests of the Government in this matter are so great in the protection of its own property, particularly of the public lands, that Congress is justified in taking prompt and effective measures toward the relief of the present situation. No steps, however, should be taken except with a broad comprehension of the magnitude of the work and with the belief that within the next ten years the works and development will be carried out to their full proportions.

The plan in general is to enter upon a broad, comprehensive scheme of development for all the irrigable land upon Colorado River with needed storage at the headwaters, so that none of the water of this great river which can be put to beneficial use will be allowed to go

to waste. The Imperial Valley will never have a safe and adequate supply of water until the main canal extends from the Laguna dam. At each end this dam is connected with rock bluffs and provides a permanent heading founded on rock for the diversion of the water. Any works built below this point would not be safe from destruction by floods and can not be depended upon for a permanent and reliable supply of water to the valley.

If Congress does not give authority and make adequate provision to take up this work in the way suggested, it must be inferred that it acquiesces in the abandonment of the work at Laguna and of all future attempts to utilize the valuable public domain in this part of the country.

THEODORE ROOSEVELT.

The WHITE House, *January 12, 1907.*

DEPARTMENT OF THE INTERIOR,
UNITED STATES GEOLOGICAL SURVEY,
Washington, D. C., January 10, 1907.

SIR: In accordance with your oral request, I have the honor to submit the following statement in respect to the Colorado River-Salton Sea situation in southern California.

It may be assumed that one of three courses can be followed:

First. Let the entire matter alone for the individuals and corporations to handle as best they may.

Second. Request an appropriation of \$2,000,000 from Congress and the privilege from Mexico to expend this money largely in Mexican territory in constructing and maintaining permanent works of protection along the west bank of the Colorado River.

Third. Have the Government take entire charge of the situation, develop its own lands, and protect the people in the Imperial Valley and in the vicinity of Yuma and in the valleys along Colorado River.

The third course is preferable, because it will bring about ultimately a full development of the public lands and of the resources of the country, and will add to its permanent population and prosperity. This course will involve the obtaining of appropriations of funds from time to time, which will ultimately be repaid. It will also be necessary to obtain from Mexico the right to carry a canal through Mexican territory and build protective works on the Mexican side of the boundary. It may also be necessary to make some concessions of water required for Mexican lands. We have heretofore estimated that, in the event the United States Government constructs the works, water to the extent of 600,000 acre-feet per annum could be furnished for Mexican lands, which would irrigate about 150,000 acres. If this is done, provision ought to be made for the repayment of the proper proportion of the expenditure necessary to furnish the water on the same basis as for lands in the United States.

In this connection it may be stated that full control and storage of the flood waters of Colorado River will result in obtaining an adequate supply of water, not only for lands within the United States, but also for those in the Republic of Mexico, which can be reached by gravity canals from Colorado River. The average annual flow of Colorado River is approximately 11,000,000 acre-feet, and the entire demand for irrigable land which can be reached by gravity

along the course of the river in the United States will probably not be more than 8,000,000 acre-feet. To make this available, however, storage must be provided at the headwaters. There will thus be ample water to supply at least 150,000 acres additional in Mexico.

Unless Congress is prepared to enter upon a policy of protecting the lands and property of the United States, and ultimately developing a comprehensive system of reclamation, it does not seem to be wise to go into the subject further at present.

In the event of Congress deciding not to do anything it will be necessary to defer indefinitely the work on the Yuma project and the construction of the Laguna Dam, on which upward of \$1,000,000 have already been spent. It will not be wise to make further expenditures which will be jeopardized through failure to retain the river in its proper channel. If the river is put back in its channel by private enterprise, it will presumably be done in such a way that the relief will be of a temporary character, and the irregularly occurring floods will in a short time make another breach in the banks at the existing points of weakness.

If the work of restoring the river to its proper channel should be undertaken by private parties in Mexico, there should be obtained from Mexico some assurance that the break will be patrolled and guarded at all times, and that the individuals or corporations owning the lands and the works will be bonded in some effective way to maintain such protective works and also be required to show that they have the ability, financial and otherwise, to repair any break which may occur before it reaches dangerous proportions.

It is desirable to consider the advisability of asking Mexico to give assurance that no future artificial cutting of the west bank of the Colorado River will be allowed for any purpose whatever at any point where the interests of the United States may be jeopardized. It is believed that any cutting in this bank of soft mud at any such points will sooner or later be a source of danger and disaster to the Imperial Valley and to the lands along the lower Colorado. No such artificial cutting should therefore be permitted. On the contrary, levees should be constructed and maintained the entire distance needed for this protection, and so effectively located and built that the river can not possibly break over or through them. Any water taken from Colorado River for the irrigation of any tract lying west of this water boundary should be diverted only at points where the headworks can be founded upon solid rock.

Very respectfully,

CHAS. D. WALCOTT, *Director.*

The PRESIDENT,

The White House.

List of accompanying papers.

1. December 13, 1906. Telegram, E. H. Harriman to President.
2. December 15, 1906. Telegram, President to E. H. Harriman.
3. December 19, 1906. Telegram, E. H. Harriman to President.
4. December 20, 1906. Telegram, President to E. H. Harriman.
5. December 20, 1906. Telegram, E. H. Harriman to President.
6. December 20, 1906. Telegram, President to E. H. Harriman.

7. December 28, 1906. Letter, Charles D. Walcott to Epes Randolph.
8. January 4, 1907. Telegram, Epes Randolph to Charles D. Walcott.
9. December 31, 1906. Telegram, Charles D. Walcott to Epes Randolph.
10. January 3, 1907. Telegram, Epes Randolph to Charles D. Walcott.
11. December 26, 1906. Letter, W. J. Doran, treasurer California Development Company, to A. E. Chandler, engineer, United States Reclamation Service.
12. January 2, 1907. Telegram, President to E. H. Harriman.
13. January 2, 1907. Telegram, E. H. Harriman to President.
14. January 2, 1907. Telegram, E. H. Harriman to President.
15. January 3, 1907. Telegram, President to E. H. Harriman.
16. January 3, 1907. Telegram, E. H. Harriman to President.
17. January 7, 1907. Telegram, E. H. Harriman to President.

NEW YORK, *December 13, 1906.*

The PRESIDENT:

Referring to the overflow of the Colorado River into Imperial Valley, California, I am advised that some 800 feet of levee in the river bottom has been washed out and a new channel, which is rapidly deepening, has been cut and is now carrying about one-fourth of the discharge of the river to the Salton Sink, and within a few days will probably be carrying the entire discharge of the river. Two days ago the river was beyond control by falling [filling?], but could be dammed again within sixty or seventy days on the plan which proved successful in November. This, however, our engineers consider would be useless unless the levees are provided with sub-surface protection at least 15 feet deep, and such protection could be provided by digging a trench 8 to 10 feet wide and 15 feet deep, filling it with puddle, or by driving a row of interlocking sheet piling longitudinally through the earthen levees. About 20 miles of this construction would be necessary and would cost approximately \$3,000,000, to which should be added about \$300,000 to \$400,000, which would close up the break and restore the levees, but would not put them in condition to afford permanent relief and security.

Up to the present time the Southern Pacific has expended about \$1,000,000 for work on the Colorado River to protect itself and the settlers, and in addition has expended in moving and protecting its main line and tracks in the Salton basin, up to July 31 last, \$618,000 additional, to which must be added very large expenditures made in August, September, October, and November, the amount of which has not yet been reported, but, with the \$618,000 named, will approximate \$1,000,000 spent in moving and protecting tracks and in direct contribution of material, labor, train service, etc., in closing up the break.

If the overflow is not entirely checked, the Imperial Valley will be flooded, depriving several thousand settlers of homes and flooding a large area of irrigable land that will be speedily settled, the actual loss to farmers and towns being estimated at \$3,000,000, while the Government dam at Laguna, on which approximately \$2,000,000 have been expended, will be destroyed, and some 50,000 acres of irrigable land tributary to Yuma and 350,000 additional acres that might be irrigated can not be irrigated if the river is allowed to cut a canyon back through them, as it will inevitably do unless it is controlled, and the town of Yuma will also suffer severely.

In view of the above it does not seem fair that we should be called upon to do more than join in to help the settlers.

E. H. HARRIMAN.

[Draft of telegram sent to the President.]

WASHINGTON, December 15, 1906.

Mr. E. H. HARRIMAN,
120 Broadway, New York:

Referring to your telegrams of December 13, I assume you are planning to continue work immediately on closing break in Colorado River. I should be fully informed as to how far you intend to proceed in the matter.

[Telegram.]

NEW YORK, December 19, 1906.

The PRESIDENT, Washington:

Further referring to your telegram of the 15th instant, our engineers advise that closing the break and restoring the levees can be most quickly and cheaply done, if the work is undertaken immediately, at a cost of \$300,000 to \$350,000. The Southern Pacific Company having been at an expense of about \$2,000,000 already, it does not feel warranted in assuming this responsibility and the additional expenditure which is likely to follow to make the work permanent besides the expenditure which the company is already undergoing to put its tracks above danger line. We are willing to cooperate with the Government, contributing train service, use of tracks and switches, use of rock quarries, train crews, etc., and the California Development Company will contribute its engineers and organization, the whole work to be done under the Reclamation Service. Can you bring this about?

E. H. HARRIMAN.

[Telegram.]

WASHINGTON, December 20, 1906.

Mr. E. H. HARRIMAN,
120 Broadway, New York:

Replying to yours of 19th, Reclamation Service can not enter upon work without authority of Congress and suitable convention with Mexico. Congress adjourns to-day for holidays. Impossible to secure action at present. It is incumbent upon you to close break again. Question of future permanent maintenance can then be taken up. Reclamation engineers available for consultation. That is all the aid that there is in the power of the Government to render, and it seems to me clear that it is the imperative duty of the California Development Company to close this break at once.

The dangers ultimately due only to the action of that company in the past in making heading completed in October, 1904, in Mexican territory. The present crisis can at this moment only be met by the action of the company which is ultimately responsible for it and that action should be taken without an hour's delay. Through

the Department of State I am endeavoring to secure such action by the Mexican Government as will enable Congress in its turn to act. But at present Congress can do nothing without such action by the Mexican Government.

This is a matter of such vital importance that I wish to repeat that there is not the slightest excuse for the California Development Company waiting an hour for the action of the Government. It is its duty to meet the present danger immediately, and then this Government will take up with it, as it has already taken up with Mexico, the question of providing in permanent shape against the recurrence of the danger.

THEODORE ROOSEVELT.

[Telegram.]

NEW YORK, December 20, 1906.

The PRESIDENT, Washington, D. C.:

Replying to your telegram of this date, you seem to be under the impression that the California Development Company is a Southern Pacific enterprise. This is erroneous. It had nothing to do with its work or the opening of the canal. We are not interested in its stock, and in no way control it. We have loaned it some money to assist in dealing with the situation. What the Southern Pacific Company has done was for the protection of the settlers as well as of its tracks, but we have determined to move the tracks onto high ground anyway. However, in view of your message I am giving authority to the Southern Pacific officers in the West to proceed at once with efforts to repair the break, trusting that the Government, as soon as you can procure the necessary Congressional action, will assist us with the burden.

E. H. HARRIMAN.

[Telegram.]

WASHINGTON, December 20, 1906.

Mr. E. H. HARRIMAN,
120 Broadway, New York, N. Y.:

Am delighted to receive your telegram. Have at once directed the Reclamation Service to get into touch with you, so that as soon as Congress reassembles I can recommend legislation which will provide against a repetition of the disaster and make provision for the equitable distribution of the burden.

THEODORE ROOSEVELT.

DECEMBER 28, 1906.

DEAR SIR: On December 20 the President of the United States, acting upon requests made by Mr. E. H. Harriman and by citizens of southern California, instructed me to formulate a plan covering the improvement of conditions on Colorado River.

The President states in his note that—

Mexico has behaved admirably, and has expressed a willingness to do anything within reason which we desire in the Colorado River break matter. Of course Mexico is not to do the work. This work must be done by Harriman & Co., as I pointed out in my telegram to him. We should be prepared to put a definite request before Congress immediately upon its reassembling. To do that, I must of course know just what separate or joint responsibilities there should be as regards this country and the California Development Company. Please formulate a plan at the earliest possible moment, submitting it to the State Department, so that Mexico can be fully informed.

Briefly reviewed, the history leading up to this matter is, as I understand it, as follows:

On November 6, 1906, the California Development Company succeeded in closing the gap previously made by them in the west bank of Colorado River, 4 miles south of the international boundary, all of the water being then turned back toward the Gulf.

On December 7 the flood in Colorado River passed under the levees immediately south of the break, and in a few days the entire flow of the river was again diverted from its proper channel.

On or about December 12 Mr. E. H. Harriman, president of the Southern Pacific Company, communicated with President Roosevelt, calling attention to the losses which might ensue if this break was not promptly closed, and stating that "It does not seem fair that we should be called upon to do more than join in to help the settlers."

On December 15 the President, referring to Mr. Harriman's request of December 13, stated :

I assume you are planning to continue work immediately on closing the break in Colorado River. I should be fully informed as to how far you intend to proceed in the matter.

At about the same time messages were sent to the President and to Representatives in Congress from people in the Imperial Valley, stating, in effect, that the California Development Company is bankrupt, and that it can not close the break and protect the lives and property of the citizens.

In accordance with these representations, the President instructed the Department of State to take the matter up with the ambassador at the City of Mexico. The latter stated in effect that the Mexican Government would give notice at once to the Mexican corporation of which you are president, calling upon that company to close the break in the river bank, stating that failure to do this will result in the annulment of the concession.

On December 19 Mr. Harriman replied to the President's telegram of December 15, advising him that the break in the levees can be closed at a cost of from \$300,000 to \$350,000. He adds as follows:

The Southern Pacific Company, having been at an expense of about \$2,000,000 already, it does not feel warranted in assuming this responsibility and the additional expenditure which is likely to follow to make the work permanent besides the expenditure which this company is already undergoing to put its tracks above danger line. We are willing to cooperate with the Government, contributing train service, use of tracks and switches, use of rock quarries, train crews, etc., and the California Development Company will contribute its engineers and organization, the whole work to be done under the Reclamation Service. Can you bring this about?

On December 20 the President replied to Mr. Harriman's telegram as follows:

Replying to yours of 19th, Reclamation Service can not enter upon work without authority of Congress and suitable convention with Mexico. Congress adjourns to-day for holidays. Impossible to secure action at present. It is incumbent upon you to close break again. Question of future permanent maintenance can then be taken up. That is all the aid that there is in the power of the Government to render, and it seems to me clear that it is the imperative duty of the California Development Company to close this break at once. Reclamation engineers available for consultation.

The dangers ultimately due only to the action of that company in the past in making heading completed in October, 1904, in Mexican territory. The present crisis can at this moment only be met by the action of the company which is ultimately responsible for it, and that action should be taken without an hour's delay. Through the Department of State I am endeavoring to secure such action by the Mexican Government as will enable Congress in its turn to act. But at present Congress can do nothing without such action by the Mexican Government.

This is a matter of such vital importance that I wish to repeat that there is not the slightest excuse for the California Development Company waiting an hour for the action of the Government. It is its duty to meet the present danger immediately, and then this Government will take up with it, as it has already taken up with Mexico, the question of providing in permanent shape against the recurrence of the danger.

Mr. Harriman replied to the above, under date of December 20, as follows:

Replying to your telegram of this date, you seem to be under the impression that the California Development Company is a Southern Pacific enterprise. This is erroneous. It had nothing to do with its work or the opening of the canal. We are not interested in its stock, and in no way control it. We have loaned it some money to assist in dealing with the situation. What the Southern Pacific Company has done was for the protection of the settlers as well as of its tracks, but we have determined to move the tracks onto high ground anyway. However, in view of your message I am giving authority to the Southern Pacific officers in the West to proceed at once with efforts to repair the break, trusting that the Government, as soon as you can procure the necessary Congressional action, will assist us with the burden.

The following is the President's reply, of same date:

Am delighted to receive your message. Have at once directed the Reclamation Service to get into touch with you so that as soon as Congress reassembles I can recommend legislation which will provide against a repetition of the disaster and make provision for the equitable distribution of the burden.

The situation, in brief, is this: We must have an official and conclusive statement from some one who is authorized to speak for the California Development Company as to their plans and ability to carry out this work of building and maintaining permanent protection for the Imperial Valley against overflow. The President has stated to me in his instructions of December 20 that the immediate work must be done by Mr. Harriman and his company. I have communicated with Mr. Harriman. He has stated in his telegram to the President of December 20:

You seem to be under the impression that the California Development Company is a Southern Pacific enterprise. This is erroneous. It had nothing to do with its work or the opening of the canal. We are not interested in its stock and in no way control it.

I have tried to ascertain from Mr. Harriman who are the responsible officers of the California Development Company. He has wired, on December 21, that he will find out the desired names and advise

me. I now have the information that you are the president and responsible head of both the organizations, the California Development Company and the coordinate corporation in Mexico.

We must have from you definite information, by wire if possible, as to whether you have the means and intention of permanently closing the break in the west bank of Colorado River and the ability to maintain this in permanent form. You and the companies of which you are president control the situation. It is stated that these companies are bankrupt, but we have no evidence to this effect. It is obviously impossible for me to recommend to the President, or for the President to recommend to Congress, any action until the California Development Company takes some definite stand in this matter.

Mr. Harriman disclaims all responsibility in the matter on behalf of himself and the Southern Pacific Company, and asserts that the only interest he has is that money has been loaned to the California Development Company to assist in dealing with the situation, and that what the Southern Pacific Company has done was for the protection of the settlers, as well of its tracks, but that the company is determined to move its tracks onto high ground.

The information which I desire from you by wire covers the following points:

First. Is the California Development Company able to build and maintain adequate works for delivering water to settlers in the Imperial Valley and of fulfilling its obligations as regards water rights?

Second. If the California Development Company and the Mexican corporation are not able to maintain and protect the levees along the west bank of Colorado River in a safe and permanent manner, will these corporations turn over to the United States the ownership and control of all of the works necessary for the protection of the valley, with some security or assurance that the Government may ultimately recover the money invested from the water users?

Very truly, yours,

CHAS. D. WALCOTT, *Director.*

Col. EPES RANDOLPH,

President California Development Company,

Tucson, Ariz.

[Telegram.]

TUCSON, ARIZ., January 4, 1907.

CHAS. D. WALCOTT,

Director U. S. Geological Survey, Washington, D. C.:

Re to your letter of December 28 I reply to question No. 1 as follows: The California Development Company has not the funds necessary to construct and maintain a levee system such as would be required to permanently control the Colorado River, but if the California Development Company could be relieved of the work of controlling the Colorado River it could supply the settlers of Imperial Valley with an abundance of water, and could in the end pay its own debts. Answering question No. 2, will say arrangements can be made whereby California Development Company and the Mexican corporation, which it controls, can be turned over to the

Government with the Colorado River under permanent control. The California Development Company and its Mexican company would have assets largely in excess of their liabilities.

EPES RANDOLPH.

[Telegram.]

DECEMBER 31, 1906.

PRESIDENT CALIFORNIA DEVELOPMENT COMPANY,
Delta Building, Los Angeles, Cal.:

Telegraphic requests have come from E. H. Harriman and people in southern California asking for aid in maintaining levees on Colorado River. No request from California Development Company nor indication that it is unable to control the situation permanently itself or whether it desires aid from the Government. Harriman disclaims responsibility for California Development Company. Assertion has been made that company is bankrupt and can not handle situation. President Roosevelt desires me get in touch with the situation. Wire whether California Development Company is able to build and maintain protection works and deliver water to settlers. If not able to do so, whether Government aid is desired and on what terms. Will control of protection works after completion and irrigation system be turned over to Government?

WALCOTT, *Director.*

[Telegram.]

TUCSON, ARIZ., January 3, 1907.

CHAS. D. WALCOTT,
Director U. S. Geological Survey, Washington, D. C.:

Your message of December 31 received this morning. The California Development Company joins the people of southern California in asking the Government to take over the work of permanently controlling the Colorado River, or that it appropriate money for the same. The California Development Company has outstanding liabilities to the extent of something over \$2,000,000, and it has assets which will have a value largely in excess of its liabilities, provided the Colorado River is permanently controlled. California Development Company has no money with which to prosecute the work except such as Southern Pacific Company is lending it to meet its current pay rolls and other expenses connected with again closing the break in the river and patching the levees. If the Government will take over the work of controlling the river, California Development Company will be able to supply water to citizens of Imperial Valley and liquidate its indebtedness, or if it is the desire that the Government take over the entire project, assuming the liabilities, the matter could doubtless be accomplished in that way.

EPES RANDOLPH,
President California Development Company.

THE CALIFORNIA DEVELOPMENT COMPANY,
Los Angeles, Cal., December 26, 1906.

DEAR SIR: As per your letter of even date, I beg to submit to you, as far as possible under existing conditions, a statement of the financial affairs of the California Development Company.

Owing to the emergency work during the months of September, October, and November, when it was necessary to get our material and supplies with the least possible delay, in order to accomplish the results, it scattered our bills payable so that it is impossible to give the exact amount of our indebtedness to the Southern Pacific Company. To date the Southern Pacific Company has advanced \$1,100,000 to me as treasurer of the California Development Company.

Owing to the various arrangements enjoyed by the Southern Pacific Company, by reason of its volume of business, by allowing the Southern Pacific Company to make purchases for the California Development Company we were enabled to obtain a price much lower than if we were to go into the open market; consequently there is between \$500,000 and \$600,000 of bills to date which have not been presented to us by the Southern Pacific Company, this representing work done during the construction of the dam and levee at the lower heading. In addition there is between \$50,000 and \$75,000 due the firm of Shattuck & Desmond for grading on the levee, and about \$100,000 of current bills due in this city and San Francisco.

The tangible assets of the California Development Company, as shown on the books of the company, have considerable value, but when analyzed shrink to almost nothing; in fact, some of them, even if the water is stopped and the valley is put in prosperous condition, will never materialize, and others will have a greater value than is shown. For example, the Sociedad Company has a capital stock of \$1,000,000, all of which is owned by the California Development Company, and has been carried on the books as par value. Its intrinsic value can only be determined after the land (about 85,000 acres) and concessions from the Mexican Government are put on a substantial basis; therefore it has been reduced to the actual amount invested, \$31,250. The California Development Company further owns \$114,600 worth of No. 8 bonds. This company is insolvent and will be put through bankruptcy.

In the settlement of a lawsuit C. R. Rockwood returned to the treasury of the California Development Company \$27,100 par value of his holdings in the California Development Company; A. H. Heber, \$101,900; W. T. Hefferman, \$42,300; H. W. Blaisdell, \$46,700; Mrs. K. D. Rockwood, \$26,500; the Imperial Land Company, \$25,600. As the California Development Company is hopelessly in debt, these assets at the present time are more of a liability, owing to the stockholders' liability that necessarily follows it.

The only real tangible assets owned by the California Development Company consist of \$171,523.37 of collateral notes and mortgages (this as of June 30; it has been reduced since, owing to payments made). These collateral notes and mortgages were given to secure payments on said issue by the California Development Company of its proportion of the various mutual water companies.

The books of the California Development Company, using as a basis the trial balance as of June 30, 1906, showed the Sociedad cur-

rent account, which was for the cost of construction of canals in Mexico, of \$336,481.86. It is estimated that these canals could now be constructed for considerably less than half of the amount so charged.

In a like manner the California Development Company books show as an asset \$260,817.79, cost of canals on the American side.

The California Development Company is capitalized for \$1,250,000, and has bonds outstanding of \$477,920.

The Southern Pacific Company, on June 20, 1905, loaned to the California Development Company the sum of \$200,000, secured by 51 per cent in the stock of the California Development Company, it being further agreed by the California Development Company that in consideration of the fact that the Southern Pacific Company furnished the money they could name the controlling board of directors and appoint the officers. Owing to the big inflation of the assets of the California Development Company and the lack of information in so far as pressing liabilities were concerned it was apparent on the face of representations made that the \$200,000 would answer the purpose, but upon having advanced the money it was found that the amount so advanced was barely enough to keep the company out of the hands of a receiver.

The failure of the Edinger dam in the Colorado River, occasioned by an unprecedented flood a year ago on Thanksgiving Day, represented a loss of approximately \$77,000. Owing to the lateness in the season it became apparent that it was impossible to build the dam until the following fall. From December, 1905, to the middle of November of this year the California Development Company constructed the reinforced concrete head gate at Hamlin's Heading, or more commonly known as the "American Intake;" built the railroad from Hamlin's Junction to Hamlin, and thence to the lower intake; constructed the Rockwood head gate; built Hinds dam, approximately 3,000 feet across, and constructed some 8 or 10 miles of the levee, besides keeping up the necessary repairs in the valley to prevent the Alamo waste gate and Sharps Heading going out, owing to the increased pressure against them occasioned by the entire Colorado River flowing into the Salton Sink; built a levee around the town of Calexico, and innumerable other emergencies that constantly arise.

Yours, very truly,

W. J. DORAN, *Treasurer.*

Mr. A. E. CHANDLER.

[Telegram.]

JANUARY 2, 1907.

E. H. HARRIMAN,
120 Broadway, New York City:

In your telegram of December 20 you state that the Southern Pacific Company is in no way interested in the California Development Company and in no way controls it. I am informed that about one year ago you or your employees, acting for the Southern Pacific Company, obtained possession of a majority of the stock of the California Development Company, and that you or your employees elected the present officers and now direct the policy of the company.

Before I communicate with Congress it is essential that I have a direct statement as to your control of the California Development Company. Do you or your employees or men under your direction or control of the Southern Pacific Company hold or control the majority of stock in the California Development Company? Do you or your employees control its principal officers and its president or directorate and dictate its policy? If so, what is to be the attitude of the California Development Company toward Government aid in this matter?

THEODORE ROOSEVELT.

[Telegram.]

NEW YORK, January 2, 1907.

The PRESIDENT, *The White House*:

Your message this date just received. I have the whole matter up with our officers in the West, and will advise you particularly just as soon as possible. I am yet confined to bed, but hope to be around in two or three days.

E. H. HARRIMAN.

[Telegram.]

NEW YORK, January 2, 1907.

The PRESIDENT, *Washington*:

Since my previous message of this date, I have learned that there is in the office here what purports to be copy of a contract explaining the relations between the Southern Pacific Company and the California Development Company, from which it appears that the Southern Pacific Company agreed, in June, 1905, to lend the California Development Company \$200,000 to assist it in dealing with the situation, and to secure the loan stockholders of the California Development Company pledged 6,300 shares of its capital stock, and the agreement provides that until the loan is paid the Southern Pacific Company shall be allowed to select three members of the board of directors of the California Development Company, one of whom shall be elected president, provided such president shall be acceptable to at least two members of the board selected by the development company, and it was under such agreement that Randolph was chosen president. I understand this provision for representation upon the board and the selection of the president was in order that we might supervise and keep check on the expenditure of the money lent by us.

I will send you full details when I get them from the West. But I say now that whatever may be the position of the Southern Pacific Company with California Development Company it is ready to transfer that position to the Government immediately under such conditions as you may deem fair, as we have never had any other purpose than the protection of the settlers, and I leave the matter entirely in your hands. Moreover, we will cooperate with the Government in giving the use of our plant and facilities in its efforts to stop the break. The Southern Pacific Company has no stock of the

development company except the 6,300 shares held by it purely as collateral, as above stated. I have no stock of said company, nor have any officers or employees of the Southern Pacific Company stock in said California Development Company, so far as I know.

I am informed that C. R. Rockwood, W. T. Hefferman, Mrs. Catherine Rockwood, H. W. Blaisdell, Beatty estate, estate of A. H. Heber, and J. N. Smith, none of whom are connected with the Southern Pacific Company, are stockholders owning the control of the California Development Company.

I am dictating this in bed, but hope to be out in two or three days.

E. H. HARRIMAN.

[Telegram.]

JANUARY 3, 1907.

E. H. HARRIMAN,

120 Broadway, New York:

My information from West is to effect that Southern Pacific has claims against California Development Company aggregating \$1,800,000. California Development Company has outstanding bonds of \$478,000, and has sold water rights for almost 200,000 acres, requiring expenditure of several million dollars to provide permanent supply of water for these rights; also has other debts and reported recent bond issues. Its assets are lands costing \$31,000, canals worth quarter million, notes of settlers \$170,000. Principal officers or stockholders now being sued for misappropriation of about million dollars of company funds which should have been used for protective works. Are these statements approximately correct? Of course it may be doubtful whether Government can accept your kind proposal to transfer to it what you term the position of the Southern Pacific Company with reference to the California Development Company if such transfer would as a chief effect mean the assumption by the Government of some millions of obligations. I therefore earnestly desire to know the facts in detail, that I may fully report to Congress thereon.

THEODORE ROOSEVELT.

[Telegram.]

NEW YORK, January 3, 1907.

The PRESIDENT,

The White House, Washington:

Your message of this date is received. I have no knowledge of the assets or indebtedness mentioned in your message. I have already telegraphed out West, where the books are kept, to ascertain whether the Southern Pacific Company has made any other advances beyond the amount provided for in the contract of June, 1905, referred to in my message of yesterday. I am using every possible means to get exact information and shall give it to you as soon as received. Am absolutely certain, however, that the relation of the Southern Pacific Company to the California Development Company is only that of creditor. My telegram of yesterday was not intended to ask the Government to assume any obligation of the Southern

Pacific Company, except so far as you might deem it fair for the Government to assume advances made by the Southern Pacific Company to assist the Development Company in efforts to prevent damage by the river. The Southern Pacific Company has never assumed any obligation of the California Development Company.

E. H. HARRIMAN.

This memorandum of agreement made and entered into this the 20th day of June, 1905, by and between the California Development Company (a corporation organized and existing under and by virtue of the laws of the State of New Jersey), party of the first part, and the Southern Pacific Company (a corporation organized and existing under and by virtue of the laws of the State of Kentucky), the party of the second part, witnesseth:

That whereas party of the first part is desirous of borrowing from party of the second part, on the terms hereinafter set out, the sum of two hundred thousand (\$200,000) dollars, to be used by it in paying off certain of its floating indebtedness and in completing and perfecting the canal system of first party, and of that certain corporation known as the Mexican Company; and

Whereas on the terms and conditions hereinafter set out, party of the second part is willing to make such loan;

Now, therefore, in consideration of the premises aforesaid and of the several mutual covenants and promises herein contained, the parties hereto do hereby covenant, promise, and agree as follows, to wit:

1. Party of the second part is to loan and advance to party of the first part and at once pay into its treasury the sum of two hundred thousand (\$200,000) dollars; which said loan is to be repaid by first party to second party on or before March 1, 1911, in installments as follows: Twenty thousand (\$20,000) on or before March 1, 1907; thirty thousand (\$30,000) dollars on or before March 1, 1908; forty thousand (\$40,000) dollars on or before March 1, 1909; fifty thousand (\$50,000) dollars on or before March 1, 1910, and sixty thousand (\$60,000) dollars on or before March 1, 1911; all deferred payments to bear interest from date of advancement and payment of the money hereunder to first party until paid at the rate six (6) per cent per annum, payable semiannually, and which said sum, with the interest thereon, first party agrees to pay to second party in installments as above fixed and set out.

2. In order to secure said loan and the repayment of the same and to secure second party in making the same, it is agreed that during the continuance of the whole or any part of said loan unpaid party of the second part is to have three members on first party's board of directors, one of whom shall be during said time the duly elected president and general manager of first party and its business. To that end first party agrees to cause three members of its board of directors as now constituted to resign and in their places and steads to cause to be elected three parties to be selected for that purpose by second party; upon which being done first party is to cause the other members on said board then in California to vote for and elect one of the three directors so selected and named by second

party to the office of president and general manager of first party and its business. And in the event of any vacancy occurring in the office of director held by either of said persons selected by party of the second part or in said office of president then party of first part shall cause such person to be elected to said office as party of second part shall designate.

Provided, That such president shall be acceptable—that is, not objectionable—to at least two members of the board other than those named by party of the second part.

It is further agreed that, in addition to having the right of nominating three members of said board of directors, as herein provided for, all members of said board shall be acceptable—that is, not objectionable—to second party.

3. The said president and general manager so elected shall have the power to name first party's secretary, treasurer, attorney, superintendent, chief engineer, and consulting engineer, the parties so named, however, to be acceptable to at least two members of the board of directors of The California Development Company, other than those named by party of the second part as herein provided.

4. To further secure said loan and the repayment thereof, with interest as aforesaid, party of the first part agrees to procure certain of its stockholders to pledge sixty-three hundred (6,300) shares of its capital stock; said stock to be deposited in pledge for such purpose with a trustee to be selected by party of the second part; said stock not to be transferred on the books of the corporation during the life of the pledge unforeclosed, but to remain in the names of the owners thereof who shall also have the right to sell and transfer their respective interests in the same, subject always to said pledge and the purposes thereof; at the time of so depositing said stock in pledge the respective owners thereof shall execute to the trustee or pledge so selected by the second party, irrevocable powers of attorney or proxies, giving to said trustee the right to vote said stock at all meetings of stockholders of first party held after ninety (90) days' default in payment of any installment of said loan, or in performance of any other of first party's agreements herein contained, and while such default continues.

5. While any part of said loan remains unpaid no dividends are to be declared by party of the first part, first party specially agreeing that during said time its entire receipts, particularly from water rentals, shall be applied to the perfecting of its canals and headings, and the canals and headings of said Mexican Company to the carrying on its regular business, and to the payments of its debts, including the said loan.

6. All money advanced by first party to said Mexican Company, or spent on its canals and headings, is to be charged against said Mexican Company on first party's books, to be paid back to first party out of the sales and rental of water and sales of land in Mexico by said Mexican Company, first party hereby covenanting and guaranteeing that said Mexican Company will devote all such proceeds of sales and rentals of water and proceeds of sales of its lands to the repayment to first party of all said money so advanced to or for it by first party.

In order to further secure second party that the provisions of this paragraph will be carried into effect and execution, and the said loan

will be repaid as hereinabove provided, the parties hereto and said Mexican Company at the same time of the execution hereof, and as part of the same transaction, have entered into and executed the annexed contract of even date herewith.

7. It is further agreed that first party, being the owner of nearly all of the stock of said Mexican Company, will cause the board of directors of said Mexican Company to be composed of men satisfactory to party of the second part.

8. Failure at any time while any part of said loan remains unpaid to elect as members of first party's said board of directors the three parties named therefor by second party, or failure to elect one of said parties as first party's president and general manager, as hereinabove provided for, shall operate to cause and render all the balance of said loan then unpaid to become immediately due and payable.

9. Whenever said loan, principal and interest, has been repaid, according to the terms hereof, to party of the second part, then party of the second part agrees that the stock so deposited with the pledges or trustee above mentioned as security for the payment of said loan shall be returned by said pledges or trustee to party of the first part to be by it returned and delivered to the owners thereof and the parties entitled to the same; and party of the second part further agrees upon said loan being repaid according to the terms hereof, and not before, that it will cause the three directors of party of the first part, which it is to name as hereinabove provided, to resign as such directors in such manner that the directors may elect their successors, and upon the same being done party of the first part is to resume the full control and management of its affairs and its business.

In witness whereof the said corporations parties hereto have hereunto caused their respective corporate names and seals to be hereunto affixed by their proper officers thereunto duly authorized.

THE CALIFORNIA DEVELOPMENT COMPANY,
By F. G. BLAISDELL, *President.*
By W. T. HEFFERMAN, *Secretary.*

SOUTHERN PACIFIC COMPANY,
By E. E. CALVIN, *Vice-President.*
By C. B. SEGER, *Assistant Secretary.*

This memorandum of agreement made and entered into this 20th day of June, 1905, by and between The California Development Company, a corporation, party of the first part, La Sociedad de Irrigacion y Terrenos de la Baja California (Sociedad Anonima), a corporation organized and existing under and by virtue of the laws of the Republic of Mexico (hereinafter and commonly called the Mexican Company), party of the second part, and the Southern Pacific Company, a corporation, party of the third part, witnesseth:

That whereas parties of the first part and third parts at the time of the execution hereof as a part of this same transaction, have entered into and executed the foregoing and annexed contract or agreement in writing; and

Whereas under said agreement party of the third part is to loan and advance the party of the first part the sum of two hundred thousand (\$200,000) dollars therein mentioned under the terms and

conditions and for the purposes mentioned in said foregoing contract; and

Whereas it is the understanding of all parties hereto that a large part of the money so loaned to party of the first part is for the real use and benefit of party of the second part in the work of repairing, constructing, and perfecting its canals and canal headings in the Republic of Mexico, the said loan being entirely made to party of the first part, instead of partly to party of the first part and partly to party of the second part, for the reasons and because of the fact that the party of the second part is a foreign corporation having all of its properties in a foreign country, beyond the jurisdiction of the courts of the United States, and because of the further fact that the proportions of the said loan to be used by party of the first part and by party of the second part can not in advance be ascertained or determined; and,

Whereas at the time of the agreeing to the making of said loan it was agreed by party of the second part that it should guarantee the said loan and the repayment thereof;

Now, therefore, in consideration of the premises aforesaid, and in consideration of the entering into and execution of the foregoing contract hereto annexed, the said parties of the first and second part do hereby covenant, promise, and agree as follows, to wit:

1. Party of the second part does hereby guarantee the repayment to party of the first of all of said loan, according to the terms, provisions, and conditions of the foregoing and annexed contract; to that end party of the second part agrees that all moneys received by it while said loan remains unpaid either from the sale of its land or water rights, or rights to use water, or from the rentals of water, shall be paid as received to party of the first part, to be by it used in the work of developing and perfecting and building the second party's said canal and head gates, and in the payment of second party's indebtedness, and in the repayment to party of the third part of said loan and the several installments thereof.

Party of the second part also agrees that it will cause its board of directors to elect the president and general manager of party of the first part its general manager, and that it will give to said general manager power and authority to handle and dispose of its properties in the Republic of Mexico with power to contract and agree to furnish water for use on lands in Mexico at a rental of not less than fifty (50) cents gold per acre-foot of water delivered.

2. As between parties of the first and second parts, there shall be kept regular books of account showing the amounts of money advanced or paid out by party of the first part for party of the second part, and the amounts of money received by it belonging to or for party of the second part. Party of the third part, however, in no way to be concerned with the mutual accounts as between parties of the first and second part, that being a matter entirely between them and for their adjustment from time to time in the regular course of their mutual business and intercourse, party of the third part being concerned only that the receipts and returns from the sales and rentals of the property of party of the second part shall be set aside as hereinabove provided as security for the betterment and protection of its canals and canal system, the payment of its debts, and the payments of the debt and loan to party of the third part.

In witness whereof the several corporation parties hereto have hereunto caused their corporate names and seals to be hereunto affixed by their proper officers thereunto duly authorized.

THE CALIFORNIA DEVELOPMENT COMPANY,
By F. G. BLAISDELL, *President.*
By W. T. HEFFERNAN, *Secretary.*

LA SOCIEDAD DE YRRIGACION Y TERRENOS DE LA
BAJA CALIFORNIA (SOCIEDAD ANONIMA),
By WILLIAM T. HEFFERNAN, *President.*
By A. J. FLORES, *Secretary.*

SOUTHERN PACIFIC COMPANY,
By E. E. CALVIN, *Vice-President.*
[SEAL.] By C. B. SEGER, *Assistant Secretary.*

OFFICE OF THE SECRETARY OF STATE, DEVELOPMENT, COLONIZATION, AND INDUSTRY.

SECTION FIFTH.

The President of the Republic has been pleased to address me the following decree:

Porfirio Diaz, Constitutional President of the United States of Mexico, to its inhabitants, be it known:

That the Congress of the Union has seen fit to decree as follows:

That Congress of the United States of Mexico decrees:

ONLY ARTICLE. Hereby is approved the contract that on the 17th of this month of May, 1904, was made between General Manuel Gonzales Cosio, secretary of state and of development, in representation of the Executive of the Union and Sr. Lic. Ignacio Sepulveda, as representative of the Sociedad de Riego y Terrenos de la Baja California, S. A., to carry the waters of the Colorado River through Mexican territory and for the use of said waters.

Luis Perez Verdia, President of the House of Deputies. T. Reyes Retana, President of the Senate. Carlos M. Saavedra, Secretary of the House of Deputies. Carlos Flores, Secretary of the Senate. Signed.

Therefore, I order it to be printed, published, circulated, and duly complied with.

Given in the palace of the Executive Federal power on the 7th day of the month of June, 1904. Porfirio Diaz.

To General Manuel Gonzalez Cosio, Secretary of State and of Development, Colonization, and Industry. Addressed.

And I communicate it to you for its fulfilment and other purposes.
Mexico, June 10, 1904. G. Cosio. To _____.
Revenue stamps for \$25 duly cancelled.

Contract entered into between the Citizen General D. Manuel Gonzales Cosio, secretary of state and of development, in representation of the Executive Government, and Lic. Ignacio Sepulveda, as representative of the Sociedad de Riego y Terrenos de la Baja California, S. A., to carry the waters of the Colorado River through Mexican territory, and for the use of said waters.

ARTICLE FIRST. The Sociedad de Riego y Terrenos de la Baja California, S. A., is authorized to carry through the canal which it has built in Mexican territory and through other canals that it may

build, if convenient, water to an amount of two hundred and eighty-four cubic meters per second from the waters taken from the Colorado River in territory of the United States by the California Development Company, and which waters this company has ceded to the Sociedad de Riego y Terrenos de la Baja California, S. A. It is also authorized to carry to the lands of the United States the water with the exception of that mentioned in the following article:

ARTICLE SECOND. From the water mentioned in the foregoing article, enough shall be used to irrigate the lands susceptible of irrigation in Lower California with the water carried through the canal or canals, without in any case the amount of water used exceeding one-half of the volume of water passing through said canals.

ARTICLE THIRD. Within the term of six months, counted from the publication of the present contract, the company shall deliver to the office of the secretary of development, in duplicate, properly arranged in decimal, metrical scale, the maps and profiles of the canal already built and of the other hydraulic works connected therewith, with a descriptive report.

ARTICLE FOURTH. The company is also authorized to connect, in Mexican territory, the aforesaid canal or canals with the Colorado River, so that it may be able, without injuring the rights of a third party nor the navigation as long as the river is destined for navigation, to take from said river as much as two hundred and eighty-four cubic meters of water per second. Those waters shall be used in the irrigation of lands in Mexico and the United States in the proportion established in articles first and second.

ARTICLE FIFTH. The Executive Government may authorize the company, while the needs of the country do not require the use of the total amount of the waters appropriated, to use them where it may find it convenient.

ARTICLE SIXTH. The company, grantee, is under the obligation to deliver to the office of the secretary of development, within the term fixed in the following article, the design of the hydraulic works referred to in article fourth, with a descriptive report, and the necessary maps on profiles for greater clearness of the details of the works.

ARTICLE SEVENTH. The surveys of the land to locate the hydraulic works shall be begun by the company, grantee, within the term of six months from the date of the promulgation of the present contract, and within the term of twelve months, counted from the same date, it will deliver to the secretary of development the respective maps of said works in duplicate, and properly arranged in a decimal, metrical scale, with the approval of the inspector to be appointed, and requesting the approval of the secretary of development.

The duplicate of the maps shall be returned to the company, grantee, with the annotation of having been approved or not, and the other copy shall remain in the archives of the office of the secretary.

ARTICLE EIGHTH. Within the term of twenty-four months, counted from the date of the promulgation of this contract, the company, grantee, shall begin the construction of the works, which shall be ended at the latest within seven years, counted from the same date.

ARTICLE NINTH. The company, grantee, may build over the canals it may construct the bridges it may think necessary for private traffic, presenting previously to the secretary of development for his ap-

proval the maps, and the company shall be obliged also to build, at its own expense, the bridges which may be required for the local or general traffic whenever its canals shall traverse any road or highway of public use, presenting the respective maps and requesting the previous approval of same, either from the secretary of interior and the government of the territory of Lower California or from the secretary of communications and public works, as the case may be.

ARTICLE TENTH. The company, grantee, is subject, in all that refers to the present contract, to the inspection of the engineer to be appointed by the secretary of development, and obliged to contribute to the expenses of said inspection with the sum of three hundred dollars every month, which amount shall be delivered in advance to the general treasury of the federation from the date of the promulgation of the contract.

In case that the company, grantee, should not fulfill the provisions of the present article it agrees with the right given the revenue collectors to seize and sell its property to pay the debts due to the treasury.

ARTICLE ELEVENTH. The company shall have the right of way of twenty meters in all the length of its canals on each side of said canals, besides the width of the said canals.

ARTICLE TWELFTH. The lands belonging to the nation and which the company, grantee, may occupy in all the extension, as set forth in the foregoing article, and the lands which it may need for dams, reservoirs or basins, storehouses, depots, and other buildings shall be taken freely by the company in accordance with the provisions of Paragraph III, article 3, of the law of the 6th of June, 1894.

ARTICLE THIRTEENTH. The company, grantee, may take, in accordance with the laws of condemnation by reason of public utility, the private lands needed for the establishment of its aqueducts and their appurtenances, depots, stations, and other accessories in accordance with Fraction IV of article 3 of the law of June 6th, 1894, as per the following rules:

1. If there should be no agreement between the company, grantee, and the owners of the land, there will be appointed an expert appraiser by each one of the parties, and both appraisers shall deliver to said parties their respective valuations within the term of eight days from the day of their appointment. If the valuations are not in accord, the case shall be submitted to the district judge of the territory of lower California, and he shall appoint a third expert, who shall render his decision within the peremptory term of eight days from the day of his appointment of the amount which in justice should be given to indemnify the owner of the lands to be occupied.

The district judge, taking into consideration the opinion of the experts and the proofs presented by the parties, while the experts formulate their decision, shall fix the amount of indemnity within three days. The decree of the judge shall be final, unless it shall appear to be biased.

2. If the owner of the land to be occupied for public use for the construction of the aqueducts, depots, appurtenances, and accessories should not appoint his expert appraiser within the term of eight days after so notified by the district judge, at the request of the company, grantee, said judge shall officially appoint an appraiser to represent the interests of the owner.

3. In all cases in which it be necessary to apply to the district judge, said official, if the company, grantee, would ask it, or if it would be impossible for it to specify the amount of lands to be occupied, shall begin the case, and the judge, after having previously had an audience with the Government engineer, or in the absence of this one, with the expert appointed by the same judge, shall name a sum to be deposited, while the case is tried, authorizing the company, grantee, meanwhile to occupy the lands in question, with the understanding that if the final valuation of the experts should be more or less than the amount deposited by the company, grantee, the company to pay the balance or to receive the difference.

4. If the owner of the lands in question should be unknown, or the ownership in dispute by reason of litigation or any other motive, the district judge shall fix, as the total of the indemnity, the amount rendered by the expert appointed by said judge in representation of the rightful owner of the land in question. The amount ultimately fixed shall be deposited in accordance with the legal provisions, to be delivered to whom it belongs.

5. The experts, in making their valuations, must take into account the amount of taxes paid by the land to be condemned and damages and benefits to accrue by same to the owner.

6. If, to carry out the surveys, it should be necessary to destroy or cut down, in all or in part, trees, cactus, or other obstacles, the company, grantee, shall have the right to do it, being under the obligations to pay an indemnity as soon as that be fixed.

ARTICLE FOURTEENTH. The company, grantee, is authorized to build the telegraph and telephone lines it may think necessary along its work, for the exclusive use of its enterprise, with the previous approval of the secretary of communications and public works, and also to exploit those already built in the exclusive use of its works; the Government having the right to place freely and without any payment one or two telegraph wires on the posts of the line of the company, grantee, the company, being subject to the laws and rulings now in force, or that in the future may be enacted, for the construction and exploitation of telegraph and telephone lines.

ARTICLE FIFTEENTH. The company, grantee, may import, free of custom-house duties for only once, all the engines, scientific instruments, and necessary apparatus for the outlines, construction, and exploitation of the works.

The company, grantee, shall present to the secretary of development statements in detail of the articles which, in accordance with this concession, it shall have to import when needed, provided it be done within the stipulated terms in the present contract for the installation and construction, specifying in said statements the number, quantity, and quality of the articles, observing for said importation the rules enacted and which in the future be enacted by the treasury department, and also the limitations to be fixed by the secretary of development.

ARTICLE SIXTEENTH. The articles needed shall be imported by the company, grantee, for the exclusive use of its works and its exploitation, but if it should sell or apply to any other uses any or some articles, the secretary of the treasury shall exact the payment of the respective duties, besides the penalties fixed by law in cases of smuggling.

ARTICLE SEVENTEENTH. During ten years from the promulgation of this contract, the capital invested by the company, grantee, in the survey, construction, and maintenance of the works referred to in this contract, shall be exempt from all Federal taxes, with the exception of those to be paid in stamps, which taxes shall be paid in accordance with the said law.

ARTICLE EIGHTEENTH. The company, grantee, is at liberty to enter into contracts and agreements with individuals and private and public corporations for the use of the water granted to it, being subject in the prices to be charged to the tariff which, with due opportunity, shall be presented to the secretary of development for his examination and approval, the company, grantee, having the right, nevertheless, to use said waters in the irrigation of the lands belonging to it.

ARTICLE NINETEENTH. The company, grantee, shall lose the right to use the water granted to it in this contract in article fourth in case it does not use it for a period of ten consecutive years, the Government being at liberty to grant it to any other persons, who, if they should accept the works made by the company, grantee, shall have to pay to this company the amounts fixed by the appraisers appointed by both parties.

ARTICLE TWENTIETH. The company, grantee, may transfer all or part of the concessions in the present contract with the previous permit of the secretary; also may mortgage it to individuals or private corporations; it being absolutely necessary in the first case that individuals or associations accept, respectively, all and each one of the obligations imposed to the company, grantee, by the present contract.

ARTICLE TWENTY-FIRST. The company, grantee, shall have the right to issue common shares, preferred shares, bonds, and obligations and dispose of them.

ARTICLE TWENTY-SECOND. At no time nor by any reason can the company, grantee, sell or mortgage the concessions made in the present contract to any Government or foreign State, nor admit it in partnership, it being null and of no value nor effect whatever, any stipulation made to that end.

ARTICLE TWENTY-THIRD. The company, grantee, shall have in this capital a representative fully authorized to treat with the Government in all that refers to the present contract.

ARTICLE TWENTY-FOURTH. The company, grantee, shall guarantee the obligations contracted in this contract, making a deposit in the National Bank of Mexico of ten thousand dollars in bonds of the consolidated public debt within eight days from the promulgation of the contract, and said deposit shall be returned to it when the hydraulic works referred to in this contract be finished.

ARTICLE TWENTY-FIFTH. This contract shall have no force if the deposit is not made within the term fixed in the foregoing article, and shall become extinct by the following reasons:

1. For not beginning the works for the surveying and construction of the works and by not finishing the same in the term fixed in article seventh and eighth.

2. For not making use of the waters in a term of ten consecutive years.

3. By the transfer of this contract to an individual or corporation without the previous permit of the secretary of development.

4. By the transfer or mortgage of this contract and the concessions herein contained to a Government or foreign State.

ARTICLE TWENTY-SIXTH. If the cancellation of this contract shall take place by the reasons set forth in paragraphs 1 and 2 of the foregoing articles, the company, grantee, shall lose the deposit made and the concession and especial grants hereby made to it in this contract in article fourth and in those related to it, it being in force only in what refers to article first.

In the case set forth in paragraph third the company, grantee, shall lose the deposit and the concessions and especial grants made to it in this contract.

If the cancellation should take place by the reasons expressed in Paragraph IV, the company shall incur the loss of all its rights, estates, and properties of any kind related with this contract.

In all cases and before the declaration of cancellation is made the secretary of development will grant to the company, grantee, a reasonable term to make its defense.

ARTICLE TWENTY-SEVENTH. The obligations agreed to by the company, grantee, in regard to the terms fixed in this contract shall be suspended in all cases of unexpected accident or by force of the elements duly justified and which may stop directly and absolutely the fulfillment of such obligations. The suspension shall last only for the term that the causes exist, the company, grantee, being under the duty to give to the General Government the statements and proofs of the unexpected accident within the term of three months from the time it took place, and by the sole reason of not presenting the proofs within the said term it will be impossible for the company, grantee, to allege at any time the circumstances of unexpected accident or the force of the elements.

The company, grantee, shall also present to the Federal Government the statements and proofs that the works have been continued as soon as the cause has ceased to exist, the presentation of said statements to be made within two months following the other three above mentioned. The company, grantee, shall only be excused for the term during which the impediment existed or, at most, two months more.

ARTICLE TWENTY-EIGHTH. The Government shall give to the company, grantee, the material and moral help within its possibilities, when the company so request it, to overcome the difficulties that may arise in carrying out the present contract.

ARTICLE TWENTY-NINTH. The company, grantee, shall be subject to the laws and rulings now in force and which in the future may be enacted for the supervision, use, and benefit of the waters.

ARTICLE THIRTIETH. The company, grantee, and its company assigns, shall always be considered as Mexican corporations, though all or any of its stockholders could be foreigners, and the corporation shall be subject to the jurisdiction of the courts of the Republic in all the affairs emanating and to be decided within the territory of the Republic.

They would never be able to allege in all the affairs in relation to the present contract the rights of foreigners under any circumstances, and they shall only have the rights and the way to establish the same as the laws of the Republic grant them to the Mexicans, and

consequently in any of said affairs the diplomatic foreign agents shall not have any interference.

ARTICLE THIRTY-FIRST. This contract shall be subject to the approval of both houses.

ARTICLE THIRTY-SECOND. The stamps on this contract shall be paid by the company, grantee.

Made in duplicate, in the City of Mexico, on the 17th day of the month of May, 1904.

MANUEL G. COSIO.
Y. SEPULVEDA.

CERTIFICATE OF CERTIFICATION.

I, William T. Heffernan, the duly elected secretary of the Sociedad de Irrigacion y Terrenos de la Baja, California, Sociedad Anonima, do hereby certify that the foregoing is a true and correct copy of contract between the Mexico Republic, approved by its Congress, and the Sociedad de Irrigacion y Terrenos de la Baja California, Sociedad Anonima, for the diversion, conduction, use, and sale of water from the Colorado River.

And I do further certify that the same is recorded in the minute book of the company and the original instrument on file in the office of the company in the city of Los Angeles, State of California.

In witness whereof I have hereunto signed my name as secretary of the company, duly authorized, and affixed the seal of the corporation, the 27th day of August, 1904.

(Signed) WILLIAM T. HEFFERNAN,
Secretary.

CERTIFICATE OF TRANSLATION.

I, A. J. Flores, do hereby certify that the foregoing is a true and correct translation of that certain instrument drawn, executed, and approved in the Spanish language, being a contract between the Republic of Mexico and the Sociedad de Irrigacion y Terrenos de la Baja California, Sociedad Anonima, to divert, conduct, use, and sell water from the Colorado River.

In witness whereof I have hereunto set my hand and seal, at Los Angeles, Cal., the 27th day of August, 1904.

[SEAL.] (Signed) A. J. FLORES, *Translator.*

SYNOPSIS STATEMENT OF THE HISTORY OF THE CALIFORNIA DEVELOPMENT COMPANY AND OF THE DIVERSION OF THE COLORADO RIVER INTO WHAT IS NOW KNOWN AS THE IMPERIAL VALLEY.

By EDWIN A. MESERVE, *Attorney for the California Development Company.*

This statement being made largely from memory, is not intended to be accurate as to dates nor as to measurements, but is accurate as a matter of general history.

Prior to 1893 a man by the name of W. H. Beatty, of Denver, Colo., through some source of information unknown to me, had conceived

the idea that the waters of the Colorado River could be diverted and carried through the southwestern portion of the State of California to what was then known as the Colorado Desert and now known as the Imperial Valley.

He caused to be organized what was known as the Colorado River Irrigation Company, which he attempted to promote. The work of this company proved a failure. Toward the latter end of its existence a Mr. C. R. Rockwood was employed as its engineer. In running the lines for this company Mr. Rockwood ascertained that the waters of the Colorado River could be diverted in California at a place known as Hanlons, just immediately north of the boundary line between California and Lower California, and then carried in the form of a crescent around the sand hills, some 40 or 45 miles, back into California and into the Colorado Desert, or Imperial Valley. He, with the assistance of some friends, purchased the surveys and other property belonging to the Colorado Irrigation Company and at once started out on the work of trying to enlist capital in the enterprise of bringing the waters of the Colorado River around through Mexico and into California for the reclamation of this great body of valuable land.

In 1893 he and his associates caused to be incorporated, under the laws of the State of New Jersey, the California Development Company, and in the year 1894 secured an option from Guillermo Andrade, the owner, on 100,000 acres of land lying immediately south of the boundary line, which lands were not to include any of the sand hills, the south boundary line of the lands covered by the option to extend sufficiently south to include 100,000 acres, taking in what is now known as the Alamo River channel, then called the Salton or Carter River.

Andrade owned at that time approximately 400,000 acres of land, extending from the Colorado River on the east nearly to the Cocopah Mountains on the west. This contract with Andrade was allowed to expire because of the inability of Mr. Rockwood and his associates to take it up. But in June, 1898, a contract of purchase was entered into between the California Development Company and Andrade for the purchase and sale of this 100,000 acres of land, together with all rights in the Salton or Carter River, as it was called, where the same made a bend south of and outside of the 100,000-acre tract.

It was the purpose of the California Development Company to purchase these lands direct, but it was found that, under the laws of the Republic of Mexico, American citizens could not buy land within a certain prohibited zone, except by special permission of the President of the Republic of Mexico. Accordingly there was organized a Mexican company, having a small capital stock, the same being known as La Sociedad de Irrigacion y Terrenos de Baja California (Sociedad Anonima), always referred to as "the Mexican company." The title to the 100,000-acre strip and to the rights to the channel of the Salton or Carter River (properly the Alamo River), was vested in this Mexican company, all of the stock, with the knowledge of the authorities of Mexico, being owned by the California Development Company, the directors of the Mexican company being all American citizens, there being, however, a Mexican citizen, resident of Los

Angeles, retained by requirement as secretary, and on whom all papers are served by the Mexican Government.

The charter of the Mexican company provides that the principal place of business shall be in Mexico, but that the company may have an office and principal place of business and place for the meeting of its directors in Los Angeles, Cal. Accordingly the principal place of business and the place where the annual election is held is Mexicala, just across the boundary line from Calexico, but the principal office of the corporation has always been in Los Angeles.

The California Development Company, prior to 1900, entered into a contract with George Chaffee, which called for the financing of the California Development Company by Chaffee, he being put in control of the corporation and given proxies by the stockholders owning more than a majority of the stock. Chaffee was to furnish the money necessary to buy the lands at Hanlons and build the canals through Mexico to California and the distributing systems in California. Instead of doing this he built what might be called only a temporary canal, and with a heading which never was of any service, and so handled the securities which the company acquired from the parties to whom it sold water rights, and the moneys received, that in December, 1901, the stockholders of the company found that he and his associates were taking from the company everything that it was taking in, and that they were not expending one dollar of their own money in developing the company's property.

Negotiations ensued, with the result that in February, 1902, the stockholders of the company again took over its affairs, electing Mr. A. H. Heber president and again putting Mr. C. R. Rockwood in charge of the engineering affairs of the company. The company had no money and but very few of the securities. It now has an action pending against Chaffee and his associates to recover something over \$900,000 of money, mortgages, notes, and bonds.

The Imperial Valley had settled very rapidly and the demand for water was increasing faster than the means of the company could supply it. The result of necessity was that the system constructed was not what it ought to have been or what it would have been if the funds and property of the company had been properly used instead of being diverted into the private hands of the former management.

The large percentage of silt in the Colorado River soon demonstrated that the canal system, as planned by Mr. Chaffee, would be a failure. In fact, the canals silted faster than the machinery at the command of the company could clean them out.

In the fall of 1903, a shortage of water ensued and the company found itself obligated to furnish to the settlers of that valley, which lies entirely below sea level, more water than the canal heading would take in, and consequently a second intake from the river to the canal was cut in the spring of 1904, just below the boundary line. About this time, the California Development Company, in the name of the Mexican company, was granted by the Republic of Mexico a concession by which it was permitted to take 10,000 second-feet of water from the Colorado River, in Mexico, with the right to carry one-half of that water and such water as was delivered to it at the boundary line by the California Development Company, back into the United States; the other one-half of all such waters to be

devoted primarily to the irrigation of lands in Lower California, with permission, however, to carry into California all of that one-half of the water which was not needed for use in Mexico. The California Development Company, by acquiring the title to the lands at Hanlons, had acquired the only site for controlling head gates on the river below what is now known as the Laguna dam. The site also controls what might be called or termed the gateway for the carrying of waters into Mexico and through Mexico again into the United States. By the terms of the concession from the Mexican Government to the Mexico company it was provided that no intake connecting with the Colorado River should be constructed in Mexico until the plans for all proposed structures were first approved by the proper engineering authorities of Mexico.

In the spring of 1904, what was known as intake No. 2, namely—the one just below the boundary line, silted up, as did the main intake in California, which necessarily resulted in a shortage of water in the Imperial Valley at the beginning of its hot season. This condition continued until matters became so serious, in June, 1904, that Mr. Rockwood stated to Mr. Heber that he believed they would have to take the chance and cut a third intake from the river to the canal, about four miles below the boundary line, stating that as the fall of the canal was so much more rapid than the fall of the river, he believed there would be no trouble in keeping the intake open. The company had no money with which to build structures, and even if it had, there would not have been time either for the building of structures or the submitting of plans for approval to the City of Mexico.

After consultation with Mr. Heber, Mr. Rockwood, by direction of the company and in order to save the stock and such of the crops as were not already dead in the Imperial Valley, made the opening at what has since been known as "Intake No. 3."

In the latter part of June or the early part of July, 1904, before making this connection, Mr. Rockwood stated to Mr. Heber, the president of the company, that if he was furnished with lumber with which to build a controlling gate one month before the time when floods were to be expected he would not have to close the intake even in the winter season. This Mr. Heber promised he would furnish, expecting to be able to do so, but the financial condition of the company continued to be such that he was never able to furnish the material for this temporary structure. This lower intake silted up once and had to be dredged in order to keep the water flowing therethrough. The floods in the fall of 1904 came earlier than usual, with the result that the opening at this third intake began to wash and the inflow to increase, and from that day until the close of 1906 the condition continued to grow worse. By the middle of December, 1904, sufficient water was going into the canal through this lower intake to pass into the New River and on through the New River into the Salton Sink, starting what has since been known as the Salton Sea.

Mr. Rockwood and Mr. Heber made every effort possible to get money sufficient to build the structures necessary to regulate this flow, but before money could be furnished the intake would be widened and the expense increased. Numerous efforts, however, were made with the means at hand, all proving failures.

By the last of March, 1905, differences had arisen between Mr. Heber on the one side and a majority of the stockholders of the California Development Company on the other. These gentlemen, headed by Mr. Rockwood, had come to the conclusion that Mr. Heber could not finance the company and that other arrangements would have to be made, and in April, 1905, Mr. Rockwood entered into negotiations with the representatives of the Southern Pacific Company, which resulted in a tentative agreement to the effect that if Mr. Rockwood could control the election of the directors at the annual meeting in Jersey City on the succeeding 6th day of June, that the Southern Pacific would advance \$200,000 to the company as a loan on the terms agreed upon.

At the annual meeting on the 6th of June, 1905, a struggle ensued between Mr. Heber and the stockholders working with him and Mr. Rockwood and the stockholders working with him. It soon became manifest, however, that Mr. Rockwood and his associates were in the majority and a conference was then had, which resulted in an agreement that all of the stock of the company should be voted for a board of directors agreed upon and in favor of entering into the proposed contract with the Southern Pacific Company.

This arrangement provided that the Southern Pacific Company should name three directors, the stockholders three directors, and a seventh should be selected satisfactory to all parties. A dummy board was selected, which met in Los Angeles, and on or about the 20th day of June the permanent contract with the Southern Pacific Company was authorized, a copy of which I will append hereto as an exhibit.

The Southern Pacific named three directors, the stockholders of the California Development Company three, and all parties agreed on myself as the seventh director, I having been the attorney of the company since February, 1902, and not being interested except as the attorney in any of its affairs. By the terms of the contract it was provided that the president and general manager of the company should be one of the three directors chosen by the Southern Pacific Company, but that he should be approved by two of the directors selected by the stockholders of the California Development Company. Mr. Epes Randolph was chosen for this position and has since been the head of the company. In addition to having three out of the seven directors, the Southern Pacific was given by the terms of the contract security for its loan in the way of a pledge by the stockholders of the California Development Company of a majority of the stock, also a pledge of certain securities owned by the company.

The \$200,000 loaned by the Southern Pacific Company under this contract was at once put into the treasury of the California Development Company and the work resumed of shutting out the water of the Colorado River, all of which was then practically flowing through the canals of the company into the Imperial Valley and the Salton Sink. The floods of the Colorado River came on in succession unexpectedly and each time washed out the work then in progress of shutting out the water. The \$200,000 was soon used up; the Southern Pacific then advanced more money and again more money, all for the purpose of shutting out this water, until in the

fall of 1906, it had loaned to the California Development Company, under the arrangement above set forth, something over \$600,000.

Then came the disastrous flood in August or September, 1906, which washed out what was known as the Rockwood gate, a structure which had cost something like \$150,000 to build. There was nothing then to do but to undertake to build a rock dam across the rapidly widening channel which had been washed by the Colorado River at the point known as "intake No. 3." By the time the work was done this channel was something like 1,800 feet wide. The Southern Pacific put every resource at its command at the disposal of Mr. Randolph, with the result that a rock and gravel dam was constructed across this channel and the water shut out in the month of October or November, 1906.

Then came the floods of the latter part of November and early December, 1906, washing out a levee just below this dam, resulting in a cutting back and a cutting out of the end of the dam. This breach in the dam is now widened to about 1,000 feet. Again the Southern Pacific Company is furnishing the means to close this break. The amount of indebtedness of the California Development Company to the Southern Pacific has not been adjusted, but will approximate \$1,800,000. The continued and unprecedented floods of 1905-6 have shown the necessity of building an expensive levee along the western bank of the Colorado River for a number of miles below this intake No. 3, in order to protect the properties of the settlers in the Imperial Valley.

At the beginning of the enterprise and of the settlement of the Imperial Valley certain people, desiring to get something for nothing, conceived the idea that they could locate Government lands along the line of the New River and get water therefor, without buying the same, from the wast waters which were bound to go down the New River. But very few people who located lands in what is now the bed of the New River channel bought or paid for any water rights.

The flood waters from the Colorado River from all directions found their way into the channels of the Alamo and New rivers, and were led therethrough into the Salton Sink, forming what is now known as the Salton Sea. The tremendous body of water passing down the channel of the New River has resulted in the formation of a very deep and wide channel the whole length of the Imperial Valley, washing out many of these ranches and doing a great deal of damage, the waters in the Salton Sink destroying the works of the New Liverpool Salt Company.

About the 21st of December, 1906, the Mexican Government telegraphed to its consulate at Los Angeles a preliminary informal notice to be served on the Mexican company, notifying it that the Mexican boundary line commissioner would soon call upon the Mexican company and would serve a notice demanding that he be furnished within ten days thereafter proof satisfactory that the Mexican company had the means, within thirty days thereafter, to shut out and control the waters of the Colorado River, or else the concession to the Mexican company would be canceled and the water shut out of Mexico.

The boundary commissioner of Mexico is thoroughly familiar with the conditions, is a competent engineer, and has already expressed his

opinion as to what is necessary in order to "control" the waters of the river. This, in his opinion, includes the building of the levees above mentioned. This, of course, could not be done within thirty days in any event, and the company, it goes without saying, has not the money to do it.

I am advised by wire to-day that the boundary commissioner has not yet served this notice, though he is on the ground. If the Government of Mexico should cancel the concession and shut the water out of Mexico, a few days without water in that climate would settle all questions.

The California Development Company, wondering why Mexico should cause this notice to be served, made inquiries at the city of Mexico, such as it could make, and was advised informally that the reason was that claims were being made for damages by settlers along the New River and by the New Liverpool Salt Company against the Government of Mexico, through the Government of the United States, for damages caused by reason of the Mexican Government having permitted a Mexican corporation to negligently divert the waters of the Colorado River from their natural channel in Mexico into the channel of the New River, resulting in the washing out of these ranches and of the flooding of the properties of the salt company.

The Mexican Government very properly takes the position that if damages to American citizens, occasioned by a Mexican corporation owned by American citizens, and which corporation by permission in a way was but an auxiliary to an American corporation, then the quicker it shut out all of the water from Mexico the better. How the Government of Mexico has become informed of these claims for damages we do not know, nor are we aware that they have been formally or at all presented by the Government of the United States to the Government of Mexico. We only know that the claims were prepared and that our attorney in Mexico has been given to understand that the occasion for the threatened cancellation of the concession and the shutting out of the waters is the existence of the claims.

If the break be repaired, Mexico can shut the water out of the canal in a very short time with the machinery which the company now has in the canal in Mexico and which is registered as Mexican machinery. There is no obligation on the part of Mexico to the citizens of the United States to keep the canal open or to permit it to remain open.

What the California Development Company desires is that the Government at Washington assist it in having Mexico withdraw its notice of cancellation of this concession and to permit the closing of the break and the building of the protecting works and that the Government of the United States should assist in some manner in the building of these levees and in shutting out the water.

The company has assets amply sufficient to meet and pay all debts for any of these purposes which legitimately should be charged against it, but these assets are in such shape that it would take time to convert them into cash—perhaps years.

The Southern Pacific Company does not own one share of stock in the California Development Company, and I do not believe that any

man connected with the Southern Pacific Company has any desire that the Southern Pacific Company should in any way take over the California Development Company. It has been forced to loan and advance a large sum of money, and this presumably it will want paid back.

We would ask immediate action by this Government. We believe that the Government should build the levees, because they form no part of the system for the delivering of water to the settlers in the valley, and we believe that through the medium of the Mexican company this can be done by the officers of the Reclamation Service, or such other service of the Government to which the work may be assigned.

Respectfully submitted.

EDWIN A. MESENE.

This memorandum of agreement made and entered into this the 20th day of June, 1905, by and between the California Development Company (a corporation organized and existing under and by virtue of the laws of the State of New Jersey), party of the first part, and the Southern Pacific Company (a corporation organized and existing under and by virtue of the laws of the State of Kentucky), the party of the second part, witnesseth:

That whereas party of the first part is desirous of borrowing from party of the second part, on the terms hereinafter set out, the sum of two hundred thousand (\$200,000) dollars, to be used by it in paying off certain of its floating indebtedness and in completing and perfecting the canal system of first party and of that certain corporation known as the Mexican company; and

Whereas, on the terms and conditions hereinafter set out, party of the second part is willing to make such loan:

Now, therefore, in consideration of the premises aforesaid and of the several mutual covenants and promises herein contained, the parties hereto do hereby covenant, promise, and agree as follows, to wit:

1. Party of the second part is to loan and advance to party of the first part and at once pay into its treasury the sum of two hundred thousand (\$200,000) dollars, which said loan is to be repaid by first party to second party on or before March 1, 1911, in installments as follows: Twenty thousand (\$20,000) on or before March 1, 1907; thirty thousand (\$30,000) dollars on or before March 1, 1908; forty thousand (\$40,000) on or before March 1, 1909; fifty thousand (\$50,000) dollars on or before March 1, 1910, and sixty thousand (\$60,000) dollars on or before March 1, 1911, all deferred payments to bear interest from date of advancement and payment of the money hereunder to first party until paid at the rate of six (6) per cent per annum, payable semiannually, and which said sum, with the interest thereon, first party agrees to pay to second party in installments as above fixed and set out.

2. In order to secure said loan and the repayment of the same, and to secure second party in making the same, it is agreed that during the continuance of the whole or any part of said loan unpaid party of the second part is to have three members on first party's board of directors, one of whom shall be during said time the duly elected president and general manager of first party and its business; to that end, first party agrees to cause three members of its board of directors as now constituted to resign and in their places and steads to cause to be elected three parties to be selected for that purpose by second party; upon which being done, first party is to cause the other members on said board then in California to vote for and elect one of the three directors so selected and named by second party to the office of president and general manager of first party and its business. And in the event of any vacancy occurring in the office of director held by either of said persons selected by party of the second part, or in said office of president, then party of first part shall cause such person to be elected to said office as party of second part shall designate.

Provided. That such president shall be acceptable—that is, not objectionable—to at least two members of the board other than those named by party of the second part.

It is further agreed that, in addition to having the right of nominating three members of said board of directors, as herein provided for, all members of said board shall be acceptable—that is, not objectionable—to second party.

3. The said president and general manager so elected shall have the power to name first party's secretary, treasurer, attorney, superintendent, chief engineer, and consulting engineer, the parties so named, however, to be acceptable to at least two members of the board of directors of the California Development Company other than those named by the party of the second part as herein provided.

4. To further secure said loan and the repayment thereof, with interest as aforesaid, party of the first part agrees to procure certain of its stockholders to pledge sixty-three hundred (6,300) shares of its capital stock; said stock to be deposited in pledge for such purpose with a trustee, to be selected by party of the second part; said stock not to be transferred on the books of the corporation during the life of the pledge unforeclosed, but to remain in the names of the owners thereof, who shall also have the right to sell and transfer their respective interests in the same, subject always to said pledge and the purposes thereof; at the time of so depositing said stock in pledge, the respective owners thereof shall execute to the trustee or pledgee so selected by second party irrevocable powers of attorney or proxies, giving to said trustee the right to vote said stock at all meetings of stockholders of first party held after ninety (90) days' default in payment of any installment of said loan, or in performance of any other of first party's agreements herein contained, and while such default continues.

5. While any part of said loan remains unpaid no dividends are to be declared by party of the first part, first party specially agreeing that during said time its entire receipts, particularly from water rentals, shall be applied to the perfecting of its canals and headings and the canals and headings of said Mexican company to the carrying on of its regular business and to the payments of its debts, including the said loan.

6. All money advanced by first party to said Mexican company, or spent on its canals and headings is to be charged against said Mexican company on first party's books, to be paid back to first party out of the sales and rental of water and sales of land in Mexico by said Mexican company, first party hereby covenanting and guaranteeing that said Mexican company will devote all such proceeds of sales and rentals of water and proceeds of sales of its lands to the repayment to first party of all said money so advanced to or for it by first party.

In order to further secure second party that the provisions of this paragraph will be carried into effect and execution, and the said loan will be repaid as hereinabove provided, the parties hereto and said Mexican company at the same time of the execution hereof, and as part of the same transaction, have entered into and executed the annexed contract of even date herewith.

7. It is further agreed that first party, being the owner of nearly all of the stock of said Mexican company, will cause the board of directors of said Mexican company to be composed of men satisfactory to party of the second part.

8. Failure at any time while any part of said loan remains unpaid to elect as members of first party's said board of directors the three parties named therefor by second party, or failure to elect one of said parties as first party's president and general manager, as hereinabove provided for, shall operate to cause and render all the balance of said loan then unpaid to become immediately due and payable.

9. Whenever said loan, principal and interest, has been repaid, according to the terms hereof, to party of the second part, then party of the second part agrees that the stock so deposited with the pledges or trustee above mentioned as security for the payment of said loan shall be returned by said pledgee or trustee to party of the first part, to be by it returned and delivered to the owners thereof and the parties entitled to the same; and party of the second part further agrees upon said loan being repaid according to the terms hereof, and not before; that it will cause the three directors of party of the first part which it is to name as hereinabove provided to resign as such directors in such manner that the directors may elect their successors, and upon the same being done, party of the first part is to resume the full control and management of its affairs and its business.

In witness whereof the said corporations parties hereto have hereunto caused their respective corporate names and seals to be hereunto affixed by their proper officers thereunto duly authorized.

[SEAL.]

THE CALIFORNIA DEVELOPMENT COMPANY.

By F. G. BLAISDELL, *President.*

By W. T. HEFFERNAN, *Secretary.*

SOUTHERN PACIFIC COMPANY,

By E. E. CALVIN, *Vice-President.*

By C. B. SEGER, *Assistant Secretary.*

This memorandum of agreement, made and entered into this 20th day of June, 1905, by and between The California Development Company, a corporation, party of the first part. La Sociedad de Irrigacion y Terrenos de la Baja California (Sociedad Anonima), a corporation organized and existing under and by virtue of the laws of the Republic of Mexico (hereinafter and commonly called the Mexican company), party of the second part, and the Southern Pacific Company, a corporation, party of the third part, witnesseth:

That whereas parties of the first part and third part, at the time of the execution hereof as a part of this same transaction, have entered into and executed the foregoing and annexed contract or agreement in writing; and

Whereas under said agreement party of the third part is to loan and advance the party of the first part the sum of two hundred thousand (\$200,000) dollars therein mentioned under the terms and conditions and for the purposes mentioned in said foregoing contract; and

Whereas it is the understanding of all parties hereto that a large part of the money so loaned to party of the first part is for the real use and benefit of party of the second part in the work of repairing, constructing, and perfecting its canals and canal headings in the Republic of Mexico, the said loan being entirely made to party of the first part, instead of partly to party of the first part and partly to party of the second part, for the reasons and because of the fact that party of the second part is a foreign corporation having all of its properties in a foreign country, beyond the jurisdiction of the courts of the United States, and because of the further fact that the proportions of the said loan to be used by party of the first part and by party of the second part can not in advance be ascertained or determined; and

Whereas at the time of the agreeing to the making of said loan it was agreed by party of the second part that it should guarantee the said loan and the repayment thereof;

Now, therefore, in consideration of the premises aforesaid, and in consideration of the entering into and execution of the foregoing contract hereto annexed, the said parties of the first and second part do hereby covenant, promise, and agree as follows, to wit:

1. Party of the second part does hereby guarantee the repayment to party of the first part of all of said loan, according to the terms, provisions, and conditions of the foregoing and annexed contract; to that end party of the second part agrees that all moneys received by it while said loan remains unpaid, either from the sale of its land or water rights, or rights to use water, or from the rentals of water, shall be paid as received to party of the first part, to be by it used in the work of developing and perfecting and building the second party's said canal and head gates, and in the payment of second party's indebtedness, and in the repayment to party of the third part of said loan and the several installments thereof.

Party of the second part also agrees that it will cause its board of directors to elect the president and general manager of party of the first part its general manager, and that it will give to said general manager power and authority to handle and dispose of its properties in the Republic of Mexico, with power to contract and agree to furnish water for use on lands in Mexico at a rental of not less than fifty (50) cents gold per acre-foot of water delivered.

2. As between parties of the first and second parts, there shall be kept regular books of account showing the amounts of money advanced or paid out by party of the first part for party of the second part, and the amounts of money received by it belonging to or for party of the second part; party of the third part, however, in no way to be concerned with the mutual accounts as between parties of

the first and second part, that being a matter entirely between them and for their adjustment from time to time in the regular course of their mutual business and intercourse, party of the third part being concerned only that the receipts and returns from the sales and rentals of the property of party of the second part shall be set aside, as hereinabove provided, as security for the betterment and protection of its canals and canal system, the payment of its debts, and the payments of the debt and loan to party of the third part.

In witness whereof the several corporations parties hereto have hereunto caused their corporate names and seals to be hereunto affixed by their proper officers thereunto duly authorized.

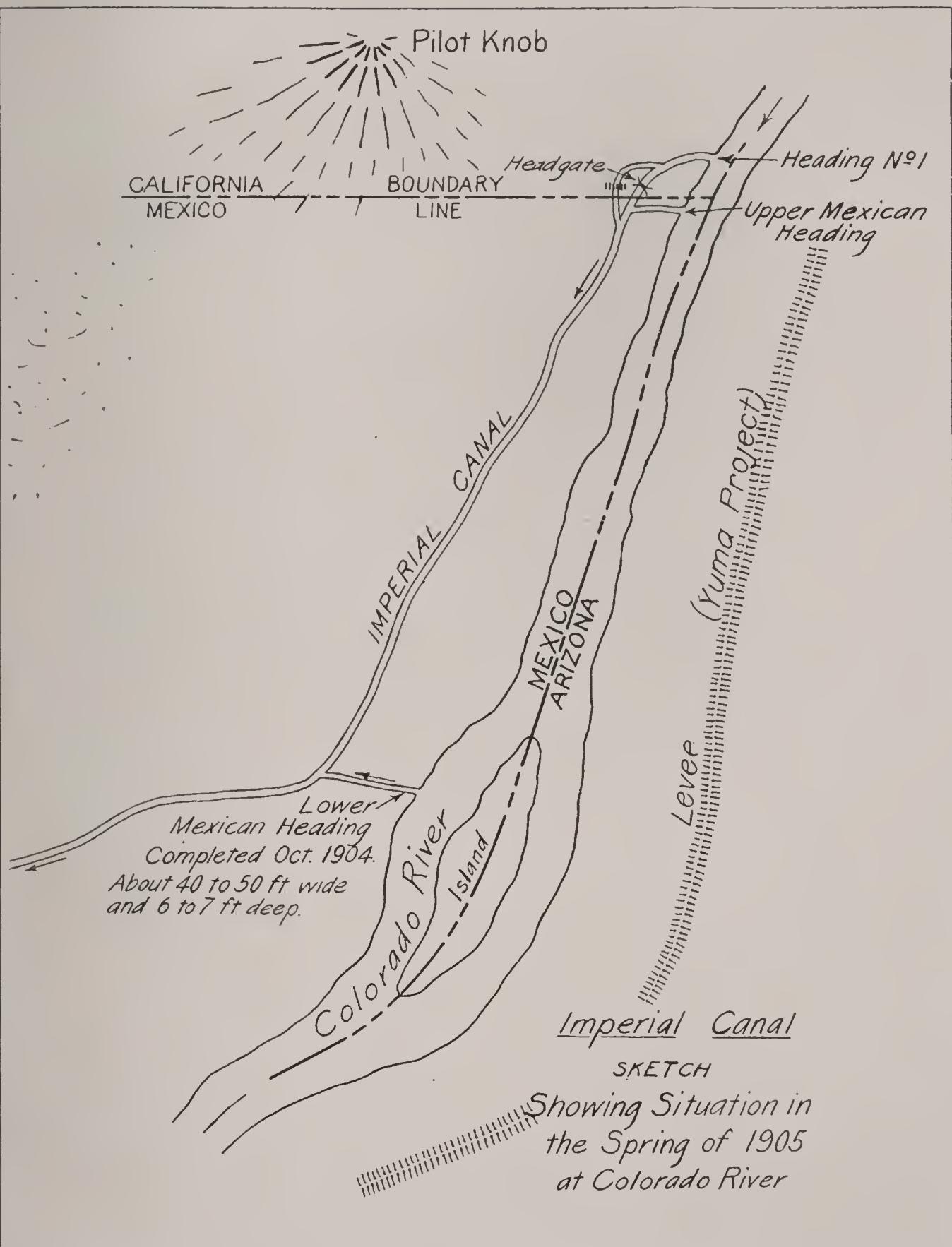
[SEAL.]

THE CALIFORNIA DEVELOPMENT COMPANY,
By F. G. BLAISDELL, *President.*
By W. T. HEFFERNAN, *Secretary.*

LA SOCIEDAD DE YRRIGATION Y TERRENOS DE LA
BAJA CALIFORNIA (SOCIEDAD ANONIMA),
By WILLIAM T. HEFFERNAN, *President.*
By A. J. FLORES, *Secretary.*

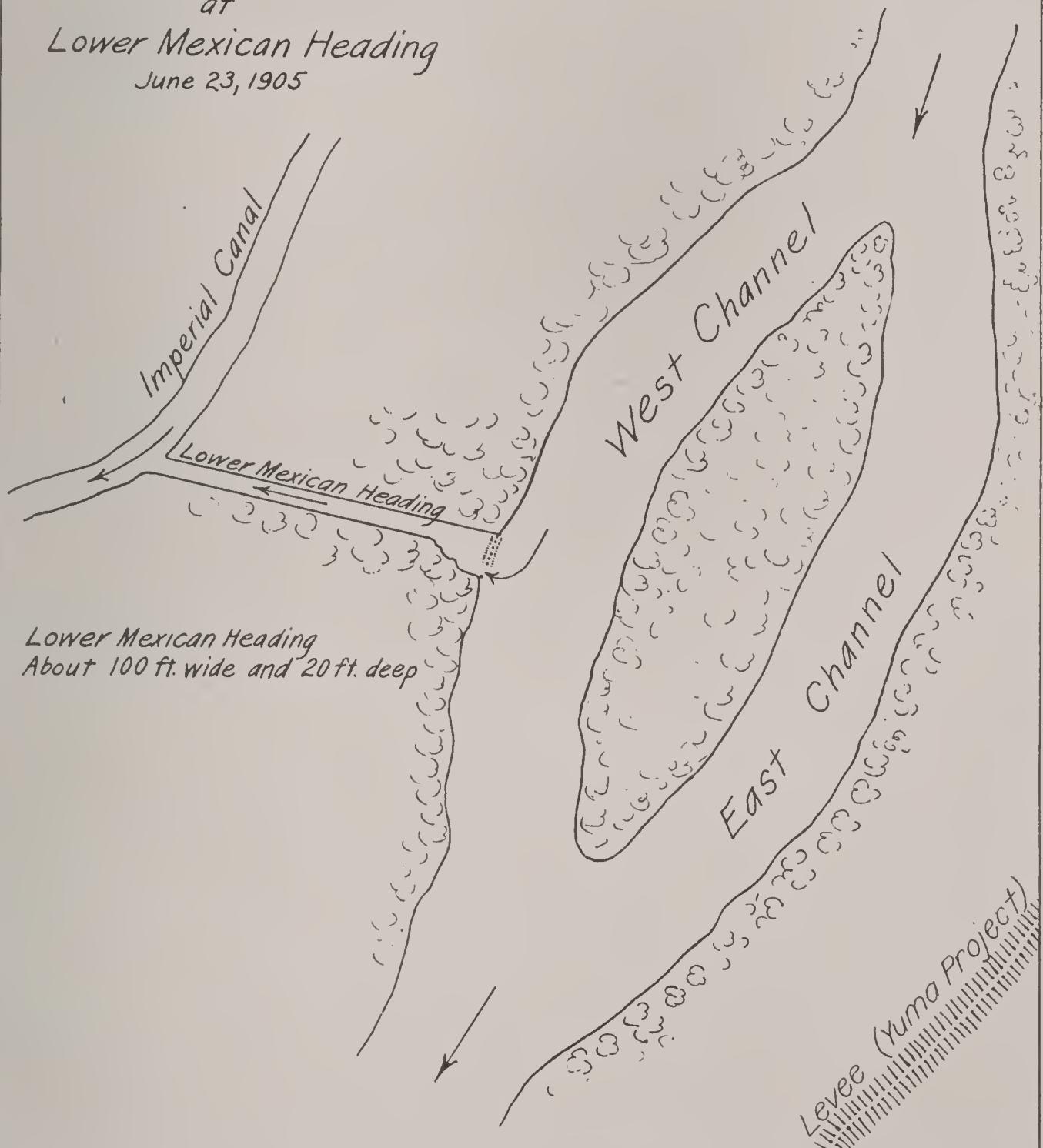
SOUTHERN PACIFIC COMPANY,
By E. E. CALVIN, *Vice-President.*
By C. B. SEGER, *Assistant Secretary.*

O



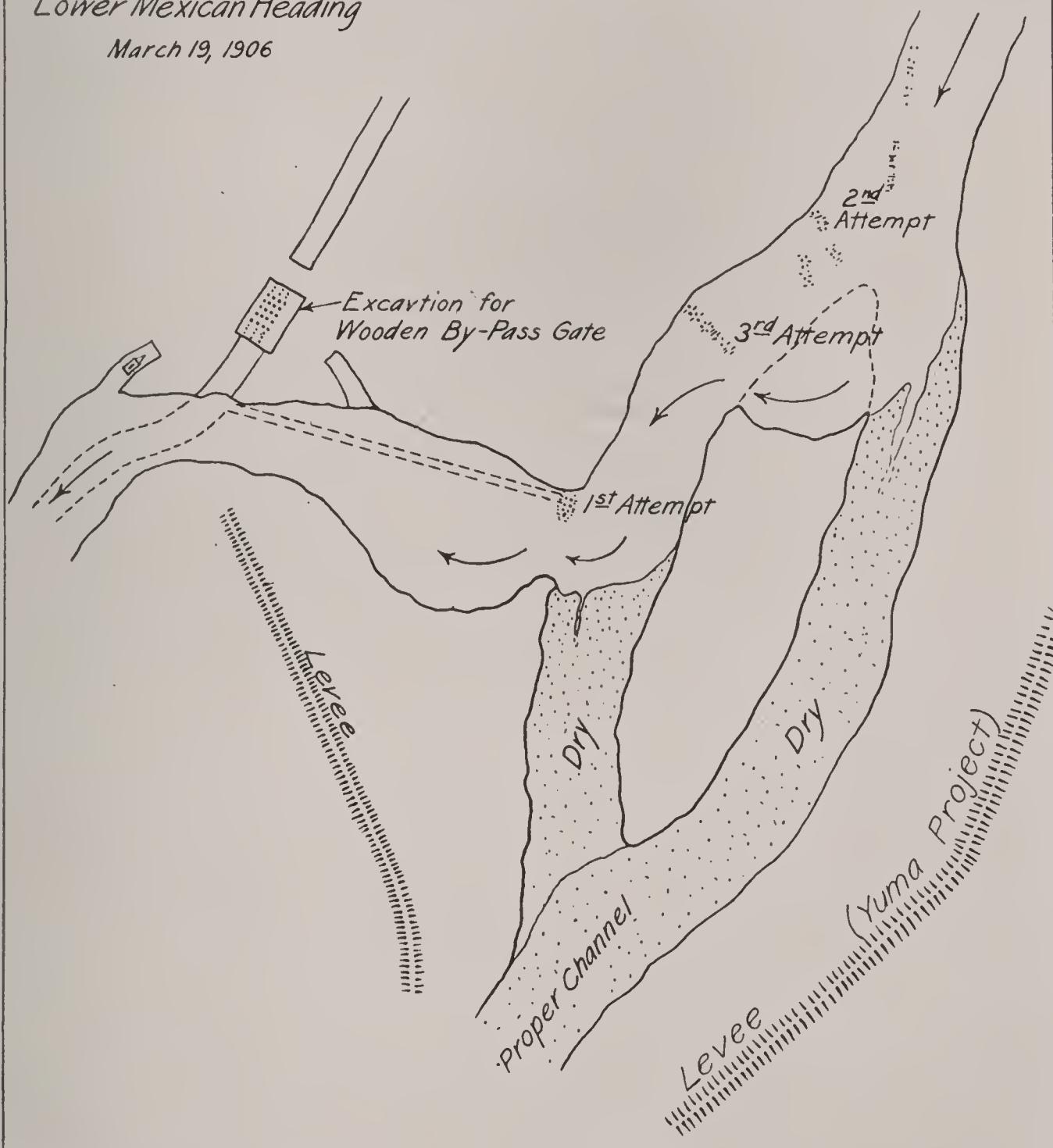
Imperial Canal

Colorado River
at
Lower Mexican Heading
June 23, 1905



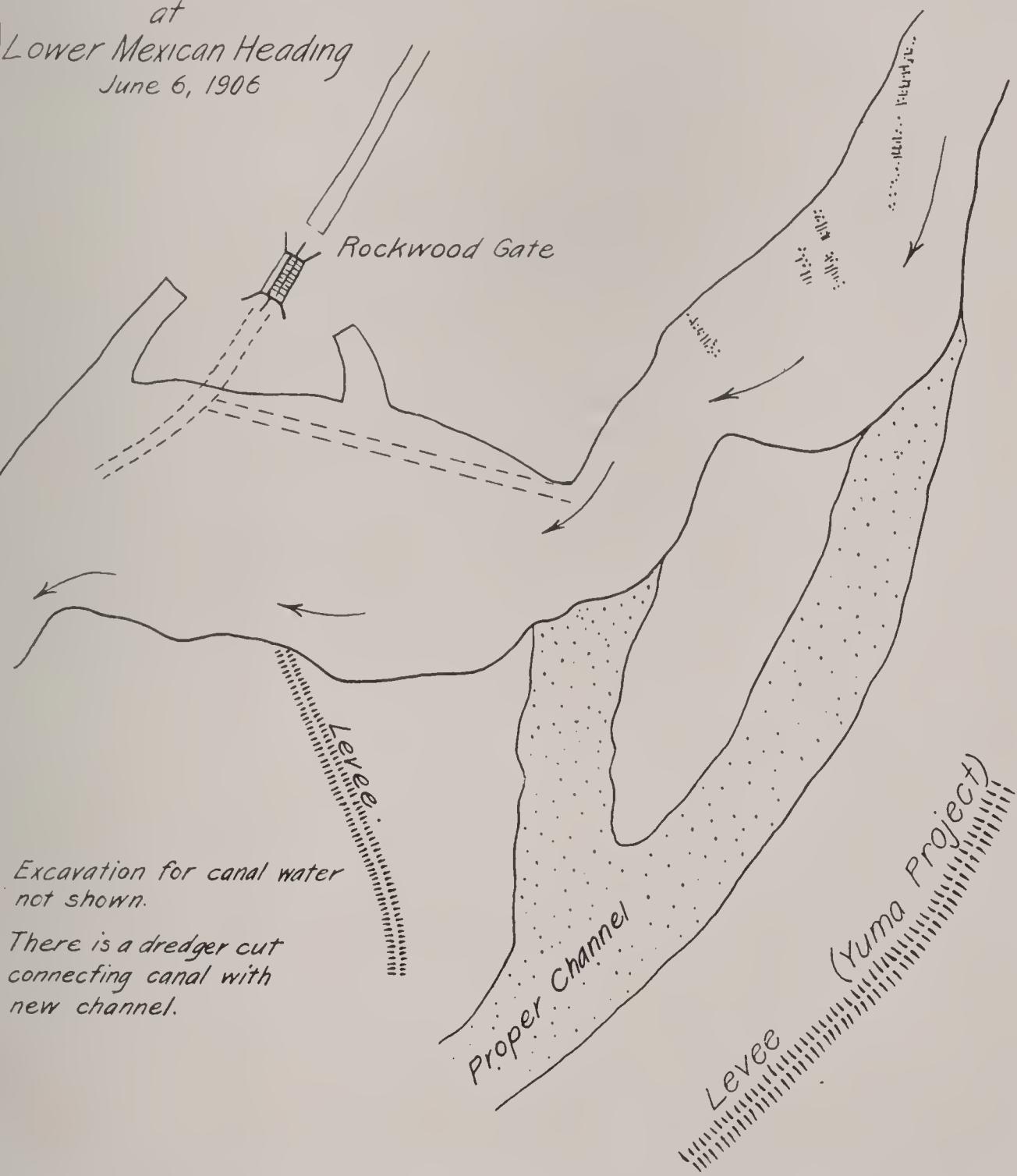
Imperial Canal

Colorado River
at
Lower Mexican Heading
March 19, 1906



Imperial Canal

Colorado River
at
Lower Mexican Heading
June 6, 1906

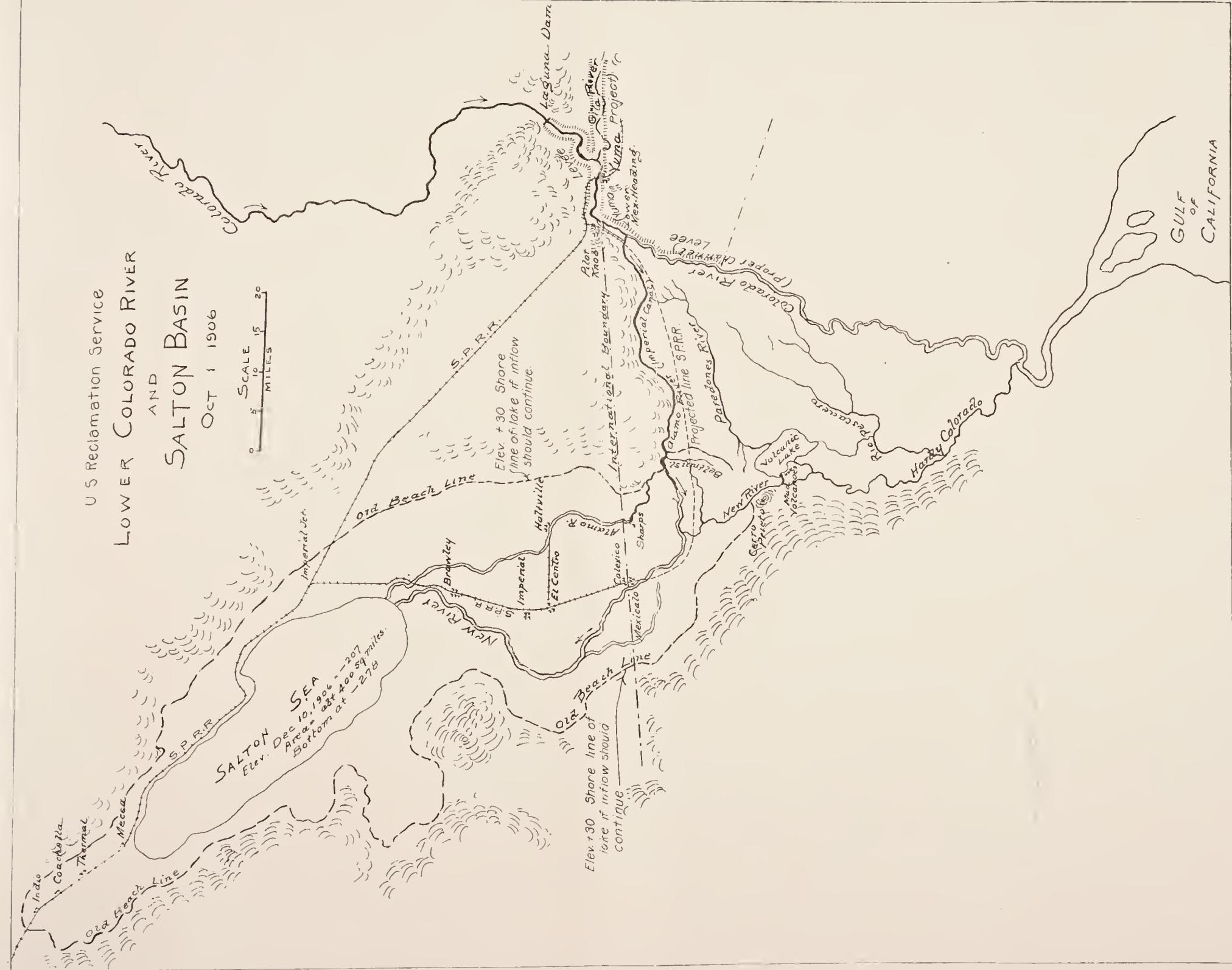


U.S. Reclamation Service
LOWER COLORADO RIVER
AND

SALTON BASIN

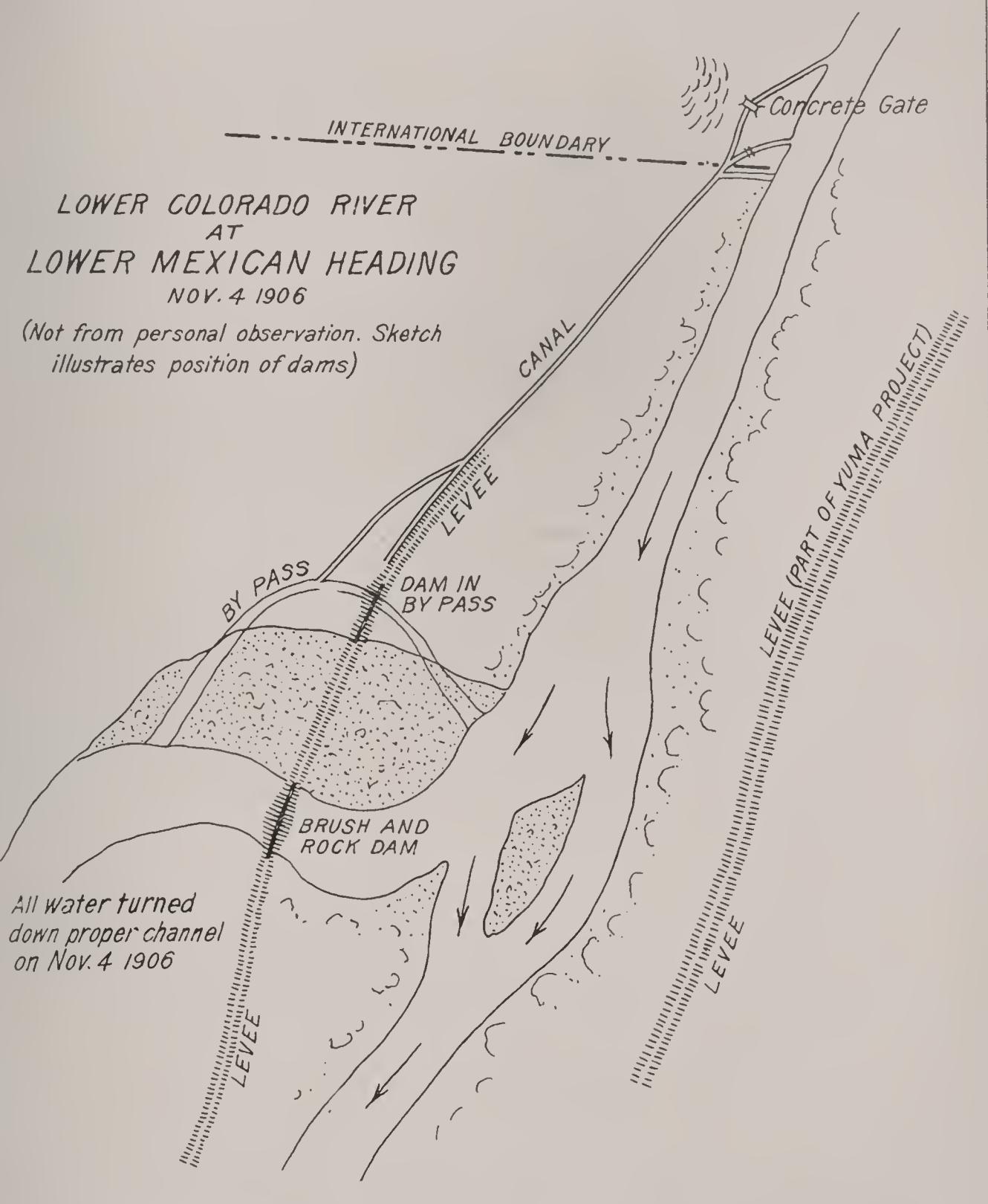
OCT 1 1906

SCALE
0 5 10 15 20
MILES



LOWER COLORADO RIVER
AT
LOWER MEXICAN HEADING
NOV. 4 1906

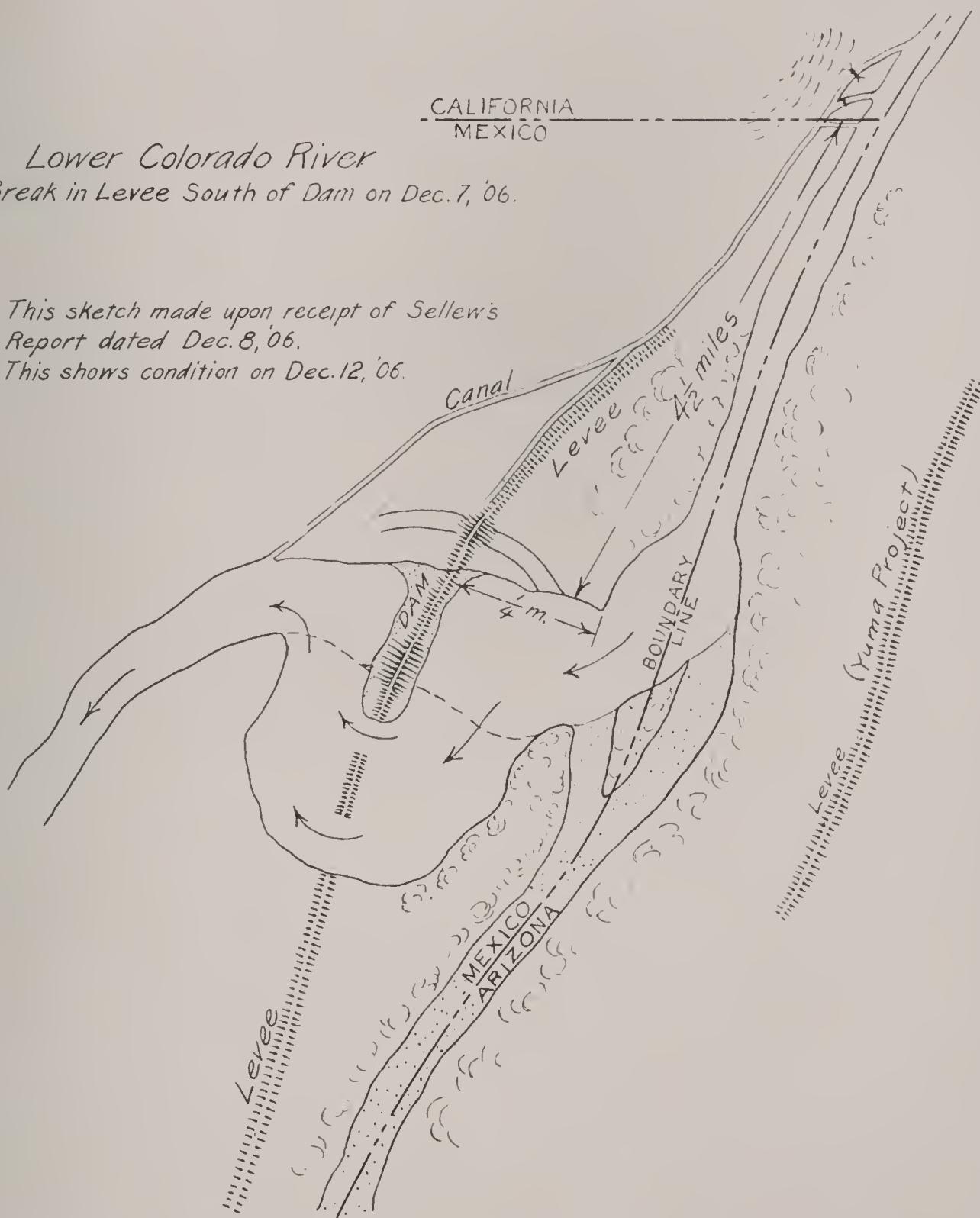
(Not from personal observation. Sketch
illustrates position of dams)



CALIFORNIA
MEXICO

Lower Colorado River
Break in Levee South of Dam on Dec. 7, '06.

This sketch made upon receipt of Sellars' Report dated Dec. 8, '06.
This shows condition on Dec. 12, '06.





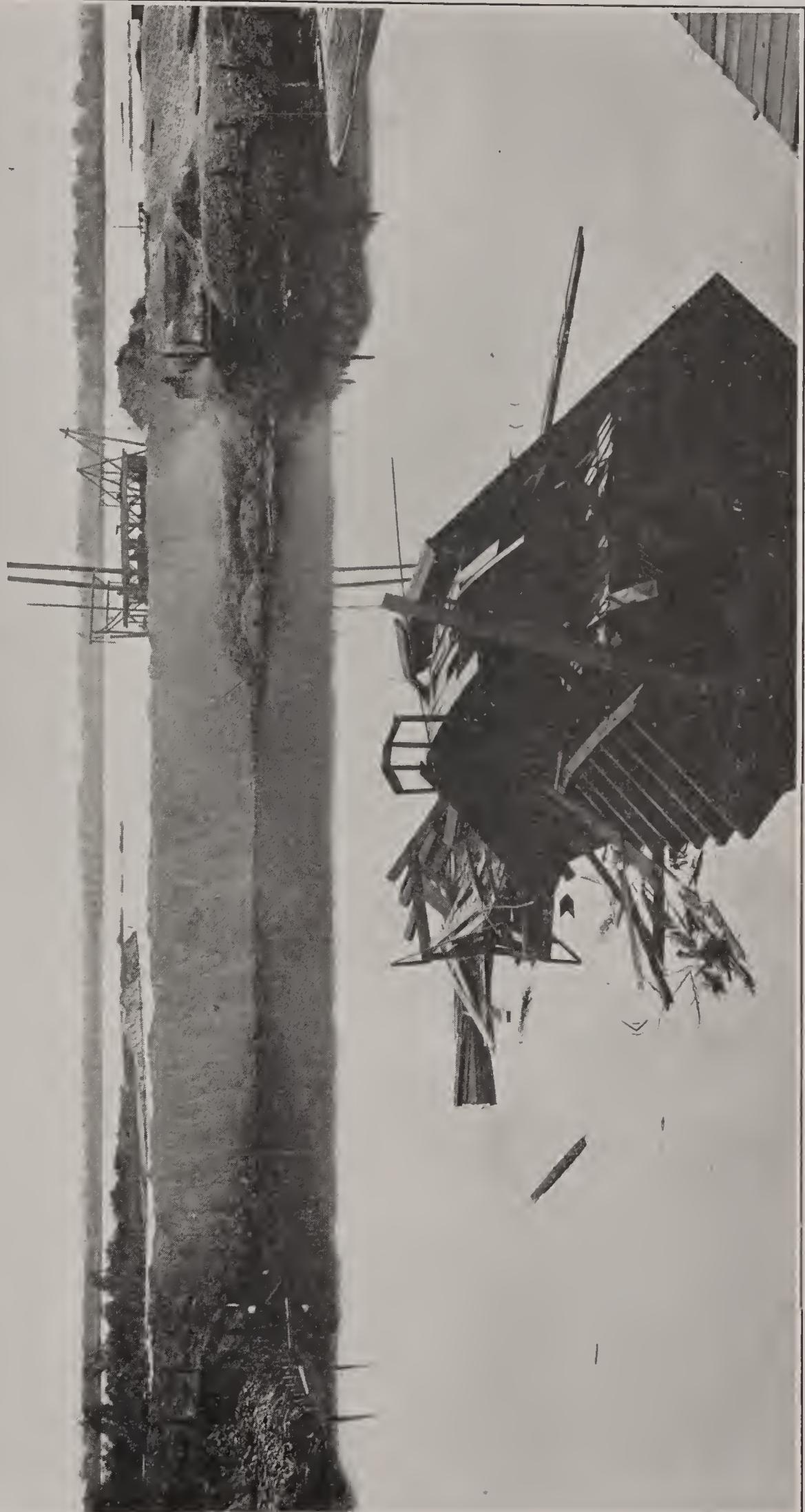
General view of break in west bank of river looking upstream toward the abandoned'bed of the river. August 26, 1906.



View of one of the attempts made to close break in west bank of Colorado River in Mexico.



Temporary closure of break in west bank of Colorado River 4 miles south of international boundary, November 13, 1906, looking northerly along tracks of Southern Pacific Company, Colorado River on the right, closed channel on left, 14 feet below level of river.



Temporary closure of break in west bank of Colorado River from lower side, looking toward site of destroyed Rockwood gates.



Result of deep cutting from overflow of Colorado River; banks 40 to 60 feet in height; channel 1,000 to 1,500 feet wide, destroying cultivated fields.



Distant view of falls resulting from overflow of west bank of Colorado River. Falls about 1,500 feet wide and 40 to 60 feet in height, cutting back upstream at the rate of about one-third mile per day.



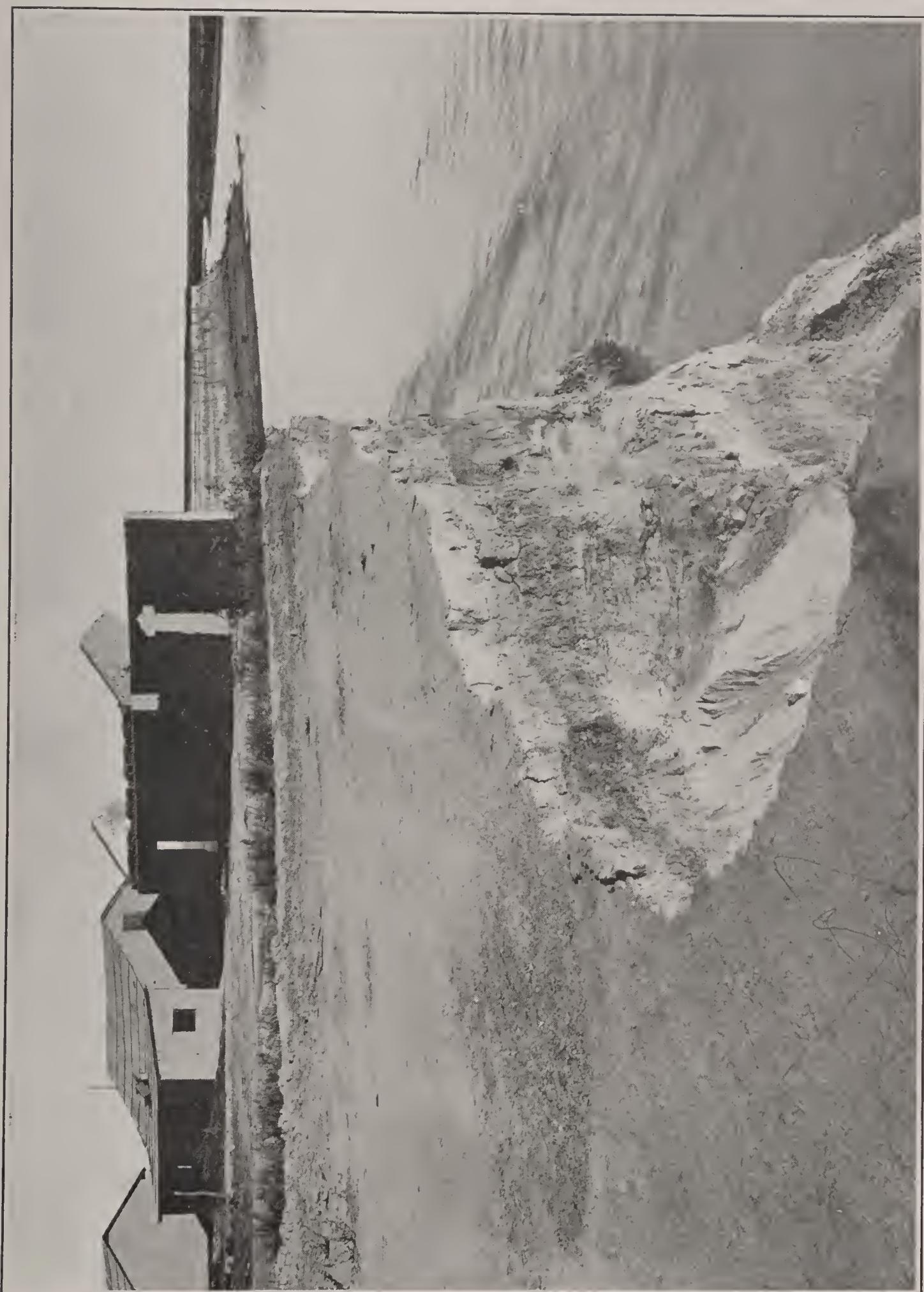
Nearer view of falls shown above.

Deep channel resulting from progress of falls upstream through cultivated fields.



Erosion of cultivated fields and destruction of farm.





Ruins of the town of Mexicala by channel made by overflow from west bank of Colorado River, destroying farms and homes.

LIBRARY OF CONGRESS



0 018 682 825 2